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March 17, 1999

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FCC MAIL ROOM

Ms. Magalie Roman Salas
Secretary
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20054

Re: CC Docket No. 94-129

Dear Ms. Salas:

Enclosed for filing please find an original plus eleven (11) copies of the Petition for Reconsideration of the Commission's Second Report and Order in this proceeding filed by Frontier Corporation.

To acknowledge receipt, please affix an appropriate notation to the copy of this letter annexed hereto for that purpose and return same to the undersigned in the enclosed, self-addressed envelope.

Very truly yours,



Michael J. Shortley, III

cc: International Transcription Service

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

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In the Matter of)
)
Implementation of the Subscriber Carrier)
Selection Changes Procedures of the)
Telecommunications Act of 1996)
)
Policies and Rules Concerning)
Unauthorized Changes of Consumers')
Long Distance Carriers)

CC Docket No. 94-129

PETITION FOR RECONSIDERATION

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March 17, 1999

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Summary

The Commission should reconsider its Second Report and Order in three respects: (1) the adoption of a blanket absolution remedy; (2) the adoption of a "no-fault" standard governing slamming; and (3) the adoption of an overly cumbersome and unworkable recovery mechanism.

First, the Commission exceeded its authority in adopting an absolution remedy. Section 258 of the Act provides an explicit remedy that does not include absolution. Had Congress wished to grant the Commission that authority, it easily could have done so. Moreover, the savings clause contained in section 258 does not help the Commission in this matter. A savings clause cannot be used to read out of existence the specific remedies provided for in the substantive provisions of the Act. And, as a practical matter, the Commission's absolution remedy achieves precisely this result.

Second, the Commission should reconsider and rescind its "no-fault" standard because the Commission has failed to justify it. Moreover, the Commission has created a serious disconnect between its no-fault standard and its remedy provisions. The latter assume that only the two affected submitting carriers are involved in the dispute resolution process and the Commission does not address how the process works when it is the executing carrier and not the submitting carrier to which the Commission's rules assign liability. One simply cannot exist without the other.

Third, the Commission must revamp its remedy provisions as follows: (a) the absolution remedy should not be triggered by a mere allegation of a slam;

(b) authorized carriers should not be required to re-rate calls; and (c) authorized carriers should not be required to restore ancillary benefits, such as frequent-flier miles.

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

In the Matter of)	
)	
Implementation of the Subscriber Carrier Selection Changes Procedures of the Telecommunications Act of 1996)	
)	CC Docket No. 94-129
Policies and Rules Concerning Unauthorized Changes of Consumers' Long Distance Carriers)	

PETITION FOR RECONSIDERATION

Introduction and Summary

Frontier Corporation ("Frontier"), on behalf of its telecommunications carrier subsidiaries and affiliates and pursuant to section 1.429 of the Commission's rules,¹ respectfully requests the Commission to reconsider certain of the rules that it adopted in its Second Report and Order in this proceeding.²

Before describing those portions of the Second Report and Order, it is important to note what Frontier is *not* challenging. Frontier supports the Commission's decisions: (a) to apply anti-slamming rules to all carriers and all telecommunications services; (b) to require that all preferred carrier ("PC") changes be verified; (c) to apply comparable rules to PC freezes and thaws, as well as to PC changes; and (d) to recognize the neutral role that executing

¹ 47 C.F.R. § 1.429.

² *Implementation of the Subscriber Carrier Selection Changes Provisions of the Telecommunications Act of 1996*, CC Dkt. 94-129, Second Report and Order and Further Notice of Proposed Rulemaking, FCC 98-334 (Dec. 23, 1998)

carriers must play in the carrier change process. These changes are plainly pro-consumer and pro-competitive.

However, the Commission's Second Report and Order misses the mark in three respects: (1) the adoption of a blanket absolution remedy; (2) the adoption of a "no-fault" standard governing slamming; and (3) the adoption of an overly cumbersome and unworkable recovery mechanism.

First, the Commission exceeded its authority in adopting an absolution remedy. Section 258 of the Act provides an explicit remedy that does not include absolution. Had Congress wished to grant the Commission that authority, it easily could have done so. Moreover, the savings clause contained in section 258 does not help the Commission in this matter. A savings clause cannot be used to read out of existence the specific remedies provided for in the substantive provisions of the Act. And, as a practical matter, the Commission's absolution remedy achieves precisely this result.

Second, the Commission should reconsider and rescind its "no-fault" standard because the Commission has failed to justify it. Moreover, the Commission has created a serious disconnect between its no-fault standard and its remedy provisions. The latter assume that only the two affected submitting carriers are involved in the dispute resolution process and the Commission does not address how the process works when it is the executing carrier and not the

("Second Report and Order"). The Second Report and Order was published in the Federal Register on February 16, 1999. 64 Fed. Reg. 7746 (Feb. 16, 1999).

submitting carrier to which the Commission's rules assign liability. One simply cannot exist without the other.

Third, the Commission must revamp its remedy provisions as follows: (a) the absolution remedy should not be triggered by a mere allegation of a slam; (b) authorized carriers should not be required to re-rate calls; and (c) authorized carriers should not be required to restore ancillary benefits, such as frequent-flier miles.

Argument

I. SECTION 258 DOES NOT AUTHORIZE THE ABSOLUTION REMEDY THAT THE COMMISSION HAS ADOPTED.

Section 258 contains a specific remedy for an unauthorized PC change: the carrier responsible for the unauthorized change is liable to the authorized carrier for the amount that the subscriber has paid.³ Despite this directive, the Commission has decided to absolve consumers from any liability for charges resulting from unauthorized PC changes for 30 days after the unauthorized change has occurred.⁴ The Commission's action is not reconcilable with the explicit remedy provided by section 258 in several respects.

First, when Congress has spoken, the room for Commission discretion is understandably narrow. Under *Chevron*,⁵ "[a] reviewing court 'must first exhaust the "traditional" tools of statutory construction' to determine whether Congress

³ 47 U.S.C. § 258(b).

⁴ Second Report and Order, ¶ 18.

⁵ *Chevron USA, Inc. v. Natural Resources Defense Council*, 467 U.S. 834 (1984).

has spoken to the precise question at issue." These tools include examination of the statute's text, legislative history, and structure, as well as its purpose.⁶ If the court's examination of the statute reveals a clear answer, "then Congress has expressed its intention as to the question, and deference is not appropriate."⁷

Here, Congress has explicitly spoken. Section 258(b) contains the Congressionally-sanctioned remedy and Congress did not provide for absolution as a remedy. The Commission did not confine itself to the statutory remedy and, as is discussed later,⁸ has adopted rules that directly conflict with this remedy.

Under *Chevron*, the Commission may not substitute its policy judgments for those of Congress. Nonetheless, the Commission appears to recognize that its remedy exceeds the scope of section 258 in its rationale justifying the absolution remedy:

Specifically, our liability rules that provide for limited absolution of slamming charges will deter slamming by minimizing the opportunity for unauthorized carriers to physically take control of slamming profits for any period of time. Even though section 258(b) requires the unauthorized carrier to remit to the authorized carrier all charges collected from the subscriber, this does not mean that the authorized carrier will receive such money. Several commenters note that *absolution is preferable to using the remedy in section 258(b) because the slamming carrier is likely to refuse to remit revenues to the authorized carrier.*⁹

⁶ *Bell Atlantic Tel. Cos. v. FCC*, 131 F.3d 1044, 1047 (D.C. Cir. 1997).

⁷ *Id.*

⁸ *See infra* at 8-9.

⁹ Second Report and Order, ¶ 19 (emphasis added).

The Commission obviously adopted this preference in promulgating its absolute remedy. The problem is that the Commission's preference is irrelevant. Where a statute is unambiguous, an agency's freedom to "interpret" it based on its own policy considerations is nonexistent.¹⁰ The agency's interpretation of an unambiguous statutory cannot trump the plain will of Congress.¹¹

Thus, "it frustrates rather than effectuates legislative intent simplistically to assume that whatever furthers the statute's primary objective must be the law."¹² The rules that the Commission adopted demonstrate the degree of "[r]eliance on free-floating notions of the 'purposes'" of the Act that are cast adrift from the language that Congress used.¹³ Here, the Commission assumes that Congress must have meant something other than what it said. In so doing, the Commission ignored a fundamental precept of administrative law: "[t]he FCC cannot abandon the legislative scheme because it thinks it has a better idea."¹⁴

Second, the Commission apparently recognizes that its absolute remedy goes well beyond the "specific statutory remedy"¹⁵ contained in section 258(b). Nonetheless, the Commission relies upon the savings clause contained in

¹⁰ See *Chevron*, 467 U.S. at 843-44; *Bell Atlantic*, 131 F.3d at 1049 ("[I]t is only legislative intent to delegate such authority [to fill a gap] that entitles an agency to advance its own statutory construction for review under the deferential second prong of *Chevron*.").

¹¹ See *Southwestern Bell Corp. v. FCC*, 43 F.3d 1515, 1522 (D.C. Cir. 1995).

¹² *Rodriguez v. United States*, 480 U.S. 522, 526 (1987).

¹³ *Andes v. Ford Motor Co.*, 70 F.3d 1332, 1335 (D.C. Cir. 1996).

¹⁴ *Southwestern Bell*, 43 F.3d at 1525.

¹⁵ Second Report and Order, ¶ 29.

section 258(b)¹⁶ and, therefore, its authority under sections 201(b) and 4(i) as grounds for authority to adopt its absolute remedy.¹⁷ There are several problems with this line of reasoning.

Savings clauses cannot be used to abrogate a specific statutory scheme. The Communications Act itself contains a general savings clause.¹⁸ A well-developed body of case law stands for the proposition that a savings clause only preserves claims that differ from those contained in the Act. The issue has arisen most often in the context of whether particular types of state law claims have been preempted. In this context, the courts have been clear that the Communications Act's general savings clause does not preserve inconsistent state causes of action. As the Illinois Supreme Court has held:

it is implausible that Section 414 of the Act preserved all [s]tate-law remedies affecting interstate telephone carriers no matter how repugnant those [s]tate laws are to the purposes and objectives of Congress.¹⁹

In other words, the Act cannot be read "to destroy itself."²⁰ The same is true of the mini-savings provision of section 258. It cannot simply be read to create rights and obligations inconsistent with those expressly created by Congress.

¹⁶ The relevant portion of section 258(b) provides that:

The remedies provided by this section are in addition to any other remedies provided by law.

¹⁷ Second Report and Order, ¶ 29.

¹⁸ 47 U.S.C. § 414, which states that "remedies now existing or at common law" are preserved.

¹⁹ *Kellerman v. MCI Telecommunications Corp.*, 112 Ill. 2d 428, 442, 493 N.E.2d 1045, 1051, *cert. denied*, 479 U.S. 949 (1986).

²⁰ *Texas and Pacific RR. Co. v. Abilene Cotton Oil Co.*, 204 U.S. 426, 446 (1907) (interpreting the Interstate Commerce Act) quoted in *Nader v. Allegany Airlines*,

To bolster its position, the Commission attempts to rely upon the provisions of section 4(i) and 201(b) to justify its conclusions.²¹ This attempt fails.

Section 4(i) does not confer upon the Commission an independent grant of substantive authority. For example, in *AT&T v. FCC*,²² the Second Circuit rejected the Commission's argument that it possessed the authority under section 4(i) and related sections to prohibit AT&T from filing certain types of tariff revisions. The Court held:

Moreover, while Section 403 authorizes the Commission to conduct inquiries on its own motion and confers the same 'powers' as if the inquiries had been commenced by complaint or petition, it does not warrant disregard of Sections 203-205. Rather, in exercising authority pursuant to Sections 4(i), 4(j) or 403, the Commission's action must not be inconsistent with Sections 203-205.²³

The Court further explained:

In rejecting the Commission's suggested interpretation of Sections 4(i), 4(j) and 403, we are mindful of the maxim that general language of a statute does not apply to a matter specifically dealt with in another part of the same statute.²⁴

The Commission's analysis of section 201(b) also must fail. That section authorizes the Commission to "prescribe such rules and regulations as may be

Inc., 426 U.S. 290, 299 (1976) (interpreting the Federal Aviation Act). See also *Contronics, Inc. v. Puerto Rico Tel. Co.*, 553 F.2d 701, 706 n.6 (1st Cir. 1977).

²¹ Second Report and Order, ¶ 29.

²² 447 F.2d 865 (2d Cir. 1973).

²³ 447 F.2d at 877.

²⁴ 447 F.2d at 877 n.26 (citation omitted).

necessary in the public interest *to carry out the provisions of the Act.*"²⁵ From this language, the Commission concludes that it has authority to adopt its absolution remedy based upon its conclusion that:

the most effective method of deterring slamming is to deprive carriers of revenue from slamming by absolving consumers of liability for 30 days after the unauthorized charge.²⁶

However, the Commission fails to reconcile its reading of section 201(b) with the specific substantive provisions of section 258(b). The Commission can only invoke its section 201(b) authority to "carry out the provisions of [the] Act." The Commission explains why it believes absolution is a good idea -- a conclusion from which Commissioners Powell and Furchgott-Roth dissent. What the Commission does not explain is how its absolution remedy carries out the *provisions* of section 258(b). Absent that reasoning, the Commission committed legal error in reaching this conclusion.²⁷

Third, the absolution remedy, in fact, is in direct conflict with the specific provisions of section 258(b). As Commissioner Furchgott-Roth cogently explains:

I am concerned that the absolution of consumer liability proposed here is not found in the statute and even conflicts with the statutory goals. Section 258 seems to anticipate that it would be the authorized carrier who would have the greatest incentive to police against slamming, so that carrier would be entitled to recover the charges paid to the slamming carrier. The

²⁵ 47 U.S.C. § 201(b) (emphasis added).

²⁶ Second Report and Order, ¶ 29.

²⁷ See also *supra* at 3-5.

rules adopted today, however, do not provide for any compensation to the authorized carrier when the subscriber does not pay the slamming carrier. In this manner, the adoption of consumer absolution may act to discourage the authorized carrier from policing those practices because frequently there will be no payments by the consumer to the slamming carrier available for them to collect.²⁸

Thus, the absolution remedy that the Commission has adopted is inconsistent with the language and purpose of section 258(b). Accordingly, upon reconsideration, the Commission should eliminate its absolution remedy and confine itself to the remedy provided for by Congress.

II. THE COMMISSION SHOULD ELIMINATE ITS "NO-FAULT" SLAMMING STANDARD.

The Commission adopted its no-fault standard based upon its conclusion that:

holding carriers liable for both inadvertent and intentional unauthorized changes to subscribers' preferred carriers will reduce the overall incidence of slamming and is consistent with section 258. We find that the rights of the consumer and the authorized carrier for remedies for slamming should not be affected by whether the slam was an intentional or accidental act. Regardless of the intent, or lack thereof, behind the unauthorized change, the consumer and the authorized carrier have suffered injury. We agree with those commenters who assert that imposing liability for both inadvertent and intentional carrier changes will make all carriers more vigilant in preventing unauthorized carrier changes and provide carriers with incentive to correct errors in a speedy and efficient manner.²⁹

²⁸ Second Report and Order, Dissenting Statement of Commissioner Harold Furchgott-Roth at 1 ("Furchgott-Roth Dissent").

²⁹ Second Report and Order, ¶ 52.

There are a number of problems with the Commission's conclusion. *First*, it ignores the fact that penalties rarely correct innocent mistakes. This is why carriers -- and virtually all other businesses -- in commercial transactions attempt to limit liability in arm's-length commercial transactions. Yet, the Commission discounts this commercial reality with the observation that:

GTE, Frontier and US West argue that imposing liability for actions that are not intentional or willful would abrogate common carriers' limited liability tariff provisions. We disagree because we cannot condone allowing carriers to protect themselves *from liability for unlawful or fraudulent conduct through the use of tariff provisions*.³⁰

Here, of course, no one even remotely suggested that any carrier had sought to protect itself from willful or intentional conduct. That is utterly irrelevant to the Commission's *no-fault* standard.³¹

Second, there exists a serious disconnect between the Commission's no-fault standard and the remedies that it has adopted. The mechanics of the absolution process *assume* that the unauthorized carrier is the *submitting* carrier and not the *executing* carrier. The rules speak in terms of the unauthorized carrier absolving the customer and remitting funds -- if they were ever collected -

³⁰ Second Report and Order, ¶ 51 (emphasis added).

³¹ In subscribing to this reasoning, the Commission is setting an extremely dangerous precedent. If the Commission believes that it may cavalierly abrogate tariff protections, it places carriers and consumers alike at peril. The relatively low prices of telecommunications services today depend upon the risks carriers are willing to assume. If the Commission decides, for example, that tariff provisions precluding the recovery of consequential damages are unenforceable, it may confidently expect that the prices for all telecommunications services will skyrocket as the risk of being a common carrier would be dramatically increased. Yet, there is no principled distinction between the Commission's analysis here and the scenario Frontier posits.

- to the unauthorized carrier.³² Yet, where the executing carrier makes the mistake, the supposedly unauthorized carrier is an entirely innocent third party. It has done nothing to cause the unauthorized change, yet the Commission's rules apparently would hold it responsible for the financial consequences of the innocent, inadvertent change. In this case, the remedy that the Commission thinks it has crafted seems to be at odds with the wrong that it has discerned.

That the Commission has subordinated the role of the executing carrier -- even where it is the carrier that caused the unauthorized change -- to the detriment of an innocent submitting carrier is made clear as a result of two footnotes contained in the Second Report and Order. The Commission writes:

Where a submitting carrier is liable for an unauthorized change, the subscriber is absolved of liability for charges incurred during the first 30 days after being slammed. If the subscriber pays slamming charges, the submitting carrier will be liable to the authorized carrier for such charges, as well as for additional amounts such as billing and collection expenses.³³

The Commission continues:

Where an executing carrier is liable for an unauthorized carrier change, it *may be subject to liability* for damages proved in state or federal court, Commission proceedings, or forfeiture penalties imposed by the Commission pursuant to section 503(b) of the Act.³⁴

³² See App. A., § 64.1170.

³³ Second Report and Order, ¶ 54 n.172.

³⁴ *Id.*, n.173 (emphasis added).

Under this approach, the responsible, executing carrier is not liable to the injured, authorized carrier except after litigation and then only to the extent of "damages proved in state or federal court." Yet, the burden of the Commission's rules falls squarely on the innocent, authorized carrier. It is hard to see how such a state of affairs will deter innocent mistakes and it seems highly unfair that the rules penalize a party that had nothing to do with an unauthorized PC change in the first instance.

Nor is this merely a minor, technical glitch in the Commission's rules. In Frontier's experience, approximately 40% of the informal slamming complaints that it receives result from the actions of local exchange carriers. In these cases, a consumer has complained of a slam where there has been no interaction between Frontier and the affected customer. The likeliest cause of this type of slam is a data inputting error by the local telephone company in programming a PC request.³⁵ This is not to say that the local telephone company has acted in a tortious manner, only that an innocent mistake has occurred. No set of draconian rules will deter these types of unintentional mistakes.

Third, the costs of the Commission's no-fault standard far outweigh any benefits to be obtained therefrom. In the first instance, the Commission must recognize that it can take only two hours to three days for a customer to be switched back to his or her authorized carrier, and the PC change charges are

³⁵ This figure likely underestimates the scope of the problem because it does not take into account those instances where Frontier has obtained a valid PC change request and that request is fouled-up in the process.

customarily waived. Yet, in the event of an inadvertent slam, the overly cumbersome remedy mechanisms that the Commission has devised are set in motion. On its face, this process is extremely expensive and time-consuming for all parties that may be affected. Where the consumer's remedy is relatively costless, it makes little sense to require the affected carriers to devote even more time and effort to resolve a mere innocent mistake when that mistake may be corrected in a more cost-effective manner.

Moreover, the evidence also strongly suggests that the slamming problem is largely confined to a few bad actors. The Commission notes that it has felt compelled to take significant enforcement action against relatively few carriers.³⁶ What this suggests is that an expanded set of new rules (except where necessary strictly to conform to the requirements of the statute) may not be necessary. Rather, it suggests that *aggressive, timely and targeted* enforcement action is required.

On this basis, the Commission should abrogate its no-fault standard, and apply the statutory remedies only upon adequate proof of an unauthorized, intentional change in a consumer's preferred carrier.³⁷

³⁶ Second Report and Order, ¶ 3.

³⁷ Of course, regardless of intent, the subscriber should be returned to the authorized carrier quickly and at no charge.

III. THE COMMISSION SHOULD SUBSTANTIALLY MODIFY ITS REMEDY PROVISIONS.

The Commission should eliminate its rules that: (a) commence its remedy mechanisms upon the mere allegation of a slam; (b) require *authorized* carriers to re-rate calls; and (c) require *authorized* carriers to restore ancillary benefits, such as frequent-flyer miles.

A. The Commission Should Not Trigger Its Remedies Upon the Mere Allegation of a Slam.

The Commission has decided that the mere allegation of a slam warrants the initiation of its absolution process.³⁸ In so doing, the Commission has put the cart before the horse. The assumption underlying the Commission's conclusion must be that the overwhelming majority of *allegations* of unauthorized PC changes, in fact, constitute valid complaints. The Commission has proffered no analytical or factual support for this thesis. Indeed, the basis for the Commission's general concern that slamming constitutes a serious and widespread problem is the number of slamming complaints that various governmental bodies receive.³⁹ Yet, it should not be the number of complaints that the Commission -- or state commissions or state attorneys general -- receive that are of decisional significance. Rather, it should be the number of *valid* complaints that the Commission processes. However, to Frontier's knowledge,

³⁸ *E.g.*, Second Report and Order, ¶¶ 18, 42, 43.

³⁹ *See id.*, ¶ 2 ("[t]he numerous complaints we continue to receive and the input of the state commissions and the state attorneys general provide ample evidence that slamming is an extremely pervasive problem.").

the Commission has never provided an analysis of the validity -- or lack thereof -- of the complaints that it receives.

In this regard, the allegation standard fails to pass scrutiny. Anecdotal evidence suggests that many slamming complaints are simply not valid. Frontier, for example, has received complaints alleging slamming where: (a) the customer chose to change carriers and may later have had buyer's remorse; (b) the customer made a non-presubscribed casual call; (c) the customer made a calling card or operator services call; and (d) someone used the customer's telephone apparently without their permission. None of these incidents constitute slams, yet the Commission appears to count them as such.

More concrete evidence also suggest that the mere number of complaints received is a poor basis on which to craft policy. The Staff of the Public Service Commission of Wisconsin has performed an analysis of the complaints that have been filed with it against the companies that it regulates. The staff concluded that approximately one-third of the complaints that it received were "not justified" and less than half were "fully justified."⁴⁰ Although this report is not confined to slamming complaints, it strongly indicates that the Commission should treat with some degree of skepticism complaints that it receives. The evidence certainly does not provide a basis for according a presumption of validity to the mere fact that a complaint has been received.

⁴⁰ Public Service Commission of Wisconsin, *1998 Year End and Fourth Quarter Report on Complaint Trends* at 8 (Jan. 29, 1999), a copy of which is annexed hereto.

Second, adopting an allegation standard will encourage widespread fraud. Although the Commission discounts fraud perpetrated by consumers as a serious concern,⁴¹ the fact remains that it is. As Commissioner Furchgott-Roth explains:

While I appreciate the expedited industry-driven process for evaluating slamming claims, informing customers that they may have 30 days of free service *with the mere allegation of a slam* will only encourage fraudulent claims of slamming. Moreover, it will necessitate increased costs to be borne by all consumers for either adjudicating those claims or providing free service to those claiming to be slammed.⁴²

Nor can the Commission discount this concern by claiming that customers will only be absolved of liability if -- after costly and resource-intensive investigation -- it turns out that the consumer was right.⁴³ The rules provide no incentive for authorized carriers to pursue their remedies simply because the costs of proceeding will far outweigh any increased revenues that may result.

B. The Commission Should Reconsider Its Decision To Require the Authorized Carrier to Re-Rate Calls.

In the event that the subscriber has paid the unauthorized carrier, the Commission requires the *authorized* carrier to re-rate the returned customer's

⁴¹ Second Report and Order, ¶ 22.

⁴² Furchgott-Roth Dissent at 2 (emphasis added).

⁴³ Second Report and Order, ¶ 22.

calls at the rates the customer would have paid had the unauthorized change never taken place.⁴⁴ This rule is not sustainable for several reasons.

Section 258(b) does not authorize the rule. It provides that:

[the unauthorized carrier] shall be liable to the carrier previously selected by the subscriber in an amount equal to *all charges paid by such subscriber* after such violation.⁴⁵

As discussed earlier, the Commission cannot simply substitute its own policy judgments for those that Congress has made.⁴⁶ Here, the Commission has done precisely that. As Commissioner Michael Powell explains:

While I agree that it is a worthy end for us to do what we can to restore slammed subscribers to their original positions, I feel strongly that the means for achieving this end must comport, as always, with the express language of the Act. Section 258(b) could not be more clear that a slamming carrier is liable to the authorized carrier for the *entire* amount the slammed subscriber has paid to the slammer.

* * * *

The statute provides for no exception to this all-inclusive language regarding charges paid to the subscriber, and I respectfully reject the suggestion that we can trump the express language of section 258(b) by relying on tidbits from legislative history, comments detailing the parties' preferences or inferences regarding what Congress must have meant in enacting the provision in the context of existing Commission rules.⁴⁷

⁴⁴ Second Report and Order, App. A, § 64.1170(d).

⁴⁵ 47 U.S.C. § 258(b) (emphasis added).

⁴⁶ See *supra* at 3-5.

⁴⁷ Second Report and Order, Statement of Commissioner Michael K. Powell, Concurring in Part and Dissenting in Part at 1-2.

Second, the re-rating rule simply cannot be implemented in any cost-effective manner. Obtaining the necessary call detail from the offending carrier, collecting the revenues from the offending carrier, re-rating calls and remitting the difference to affected consumers is a time-consuming, manual and expensive process. The entire process would likely cost more than the revenues that the authorized carrier would ever realize.

C. The Commission Should Reconsider Its Decision That the Authorized Carrier Must Restore Premiums That the Consumer Would Have Realized But for the Allegedly Unauthorized Change.

The rules requires *authorized* carriers to restore premiums (such as frequent-flyer miles) that the consumer would have earned but for the allegedly unauthorized change.⁴⁸ As is true with the re-rating remedy, this remedy cannot be implemented economically rational terms, because it is a time-consuming and manual process..

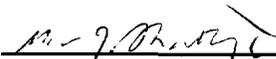
Moreover, the rule unfairly penalizes the *innocent* party -- the authorized carrier. In this case, for example, the authorized carrier has offered premiums for subscribers to sign up for and use its services. If an unauthorized change has taken place, neither event has occurred. Yet -- as between the affected carriers -- the Commission places the responsibility on the *injured* carrier to restore an equally injured party to the *status quo*. This result hardly seems fair.

⁴⁸ App. A, § 64.1170(e)

Conclusion

For the foregoing reasons, the Commission should reconsider the rules adopted in this proceeding and, upon reconsideration, act in accordance with the suggestions contained herein.

Respectfully submitted,



Michael J. Shortley, III

Attorney for Frontier Corporation

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Rochester, New York 14646
(716) 777-1028

March 17, 1999

ATTACHMENT

PUBLIC SERVICE COMMISSION OF WISCONSIN

Memorandum

Date: January 29, 1999

To: Chairperson Bie
Commissioner Mettner
Commissioner Farrow
Bert Garvin, Executive Assistant
Edward Marion, Chief Counsel
Division Administrators

From: Jim Lawrence, Consumer Affairs Program Manager
Division of Water, Compliance, and Consumer Affairs

Re: 1998 Year End and Fourth Quarter Report on Complaint Trends

INTRODUCTION

This report has three major sections: Annual complaint statistics for 1998, fourth quarter complaint figures and complaint information for individual major utilities. This is the third year for the "complaints by utility" section.

This is the first annual report produced using statistics from the new Customer Contact Reporting System. The new system uses a revised coding structure for complaints and other contacts, so there are several changes in the information provided. This also means that much of the new data is not directly comparable to what was reported in the past, so we lose some information on historical trends. In addition, analysis of what is causing changes in complaint levels for industries or particular utilities is made more difficult.

Please let me know if you have any questions, suggestions for improving the report or additional information you would like to see included.

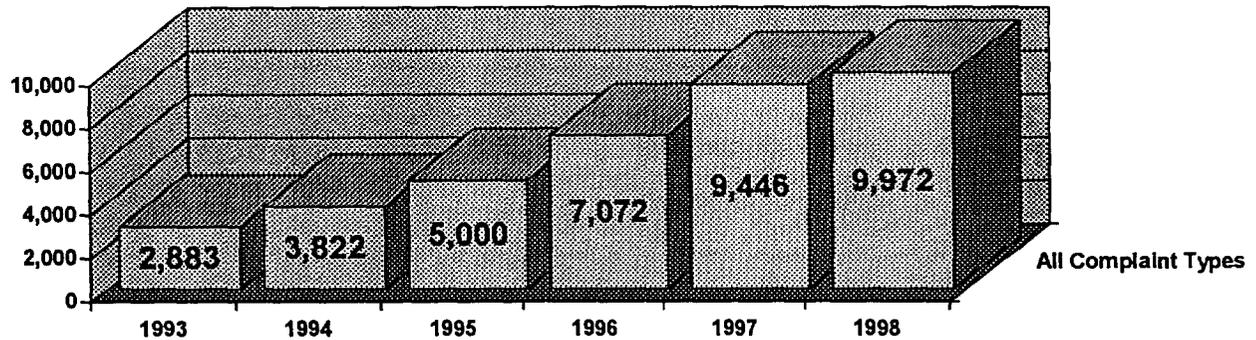
1998 Year End Report/Analysis

Totals

The total of complaints received by the PSC from consumers in 1998 was 9,972. This is an increase of 6 percent over the 9,446 complaints received in 1997 and 47 percent over the 7,072 complaints received in 1996. Approximately 93 percent of the complaints received in 1998 were handled by the Consumer Affairs Unit. This is down slightly from the 95 percent for the previous two years, but an increase from the experience prior to 1996 when the percentage was consistently around 85 percent. Ninety-three percent of the complaints are received by phone.

Three percent of the complaints are received by mail and last year an additional 3 percent were received by e-mail or through the department's Website.

Annual Totals



Customer Contacts

The new reporting system allows staff to record contacts with consumers as complaints, inquiries or opinions. The definitions of the contact types are:

- **Complaint:** A contact from a consumer expressing dissatisfaction with an action, practice or conduct of a utility and/or its employees. Also includes contacts expressing dissatisfaction with an action, practice or conduct of the Public Service Commission or entities which the public considers to be similar to regulated utilities, such as cable television, sewer, electric coops, cellular phones and Internet service providers. Complaints may or may not conclude with a determination of error or administrative rule/statute violation on the part of the company.
- **Inquiry:** A contact from a consumer or utility to solicit or verify information regarding utility or PSC service, practices, rules, administrative rules, statutes, etc. If, after being given the information, a consumer expresses disagreement or dissatisfaction, the contact should be coded as a complaint.

- **Opinion:** A consumer contact with the PSC to voice views on a particular pending issue or condition, such as a pending rate case, proposed rules, a proposed service offering, proposed mergers, etc. If after the Commission, or another body, has made a decision on an issue, we get contacts expressing dissatisfaction with the decision, the contact is recorded as a complaint.

Contacts: 4th Quarter and 1998 Year-to-Date

	1 st Quarter	2 nd Quarter	3 rd Quarter	4 th Quarter	1998 YTD
Complaints	2,212	2,823	2,814	2,113	9,972
Inquiries	96	38	52	70	256
Opinions	87	17	43	43	190
Total	2,395	2,878	2,909	2,236	10,418

Note: Quarterly figures may be different from past reports because records are corrected when recording errors are discovered and corrected after a prior report date.

Change by Industry

The number of complaints regarding telecommunications and water utilities increased from 1997, while electric and natural gas complaints decreased. As a percentage of all complaints received, telephone increased from 64 percent to 74 percent. The percentages for all other utility types decreased.

Telephone

Telephone industry complaints were 74 percent of all complaints received last year. That is up from 64 percent last year and 63 percent the previous year. In 1993 and 1994 telephone complaints were 42 percent of the total. The 7,356 telephone complaints last year are a 22 percent increase from the 6,032 received in 1997 and a 65 percent increase over 1996.

There were 3,150 Ameritech complaints - 42 percent of the total telephone complaints. This is an 8 percent decrease from the 3,428 complaints received in 1997.

Some of the factors leading to the increase in telephone complaints are:

- Complaints regarding the three largest interexchange carriers – AT&T, MCI and Sprint – increased by 360(81%). Most of the complaints were about accuracy of bills and issues such as disputed calls, charging incorrect rates, slamming and new charges for interconnection and universal service.

- Slamming and cramming complaints both increased dramatically. Slamming complaints grew from 579 to 925 (+60%) and cramming complaints went from 151 to 856, a whopping 467 percent increase.
- Over 100 complaints were received regarding the recent “extra” fees being charged by phone companies. These fees include the Presubscribed Interexchange Carrier Charge, the Universal Service Fund charge, the TEACH Wisconsin charge and the number portability charge.

Electric

The second largest percentage of complaints is from electric companies (19 percent). The 1,900 electric complaints last year reflects a 7 percent decrease from the 2,040 received in 1997, and an 34 percent increase from the 1,421 received in 1996.

A major factor in the decrease was a decrease in electric related complaints regarding Wisconsin Electric Power Company (WEPCO). WEPCO complaints decreased by 218. Steps taken this year by WEPCO to improve their Early Identification Program may have contributed to this decrease. The improved EIP program means that they are working with people with bill paying problems in assisting them with making payment arrangements. WEPCO had 350 less deferred payment arrangements (DPA) complaints last year than they had the year before.

The largest complaint types for electric utilities are disconnect for nonpayment issues, deferred payment arrangements and disputed amount of electricity use.

Natural Gas

Gas related complaints decreased by 32 percent last year, from 951 to 645. This was 6 percent of the complaint total. Gas complaints also decreased by 6 percent from the 1996 level.

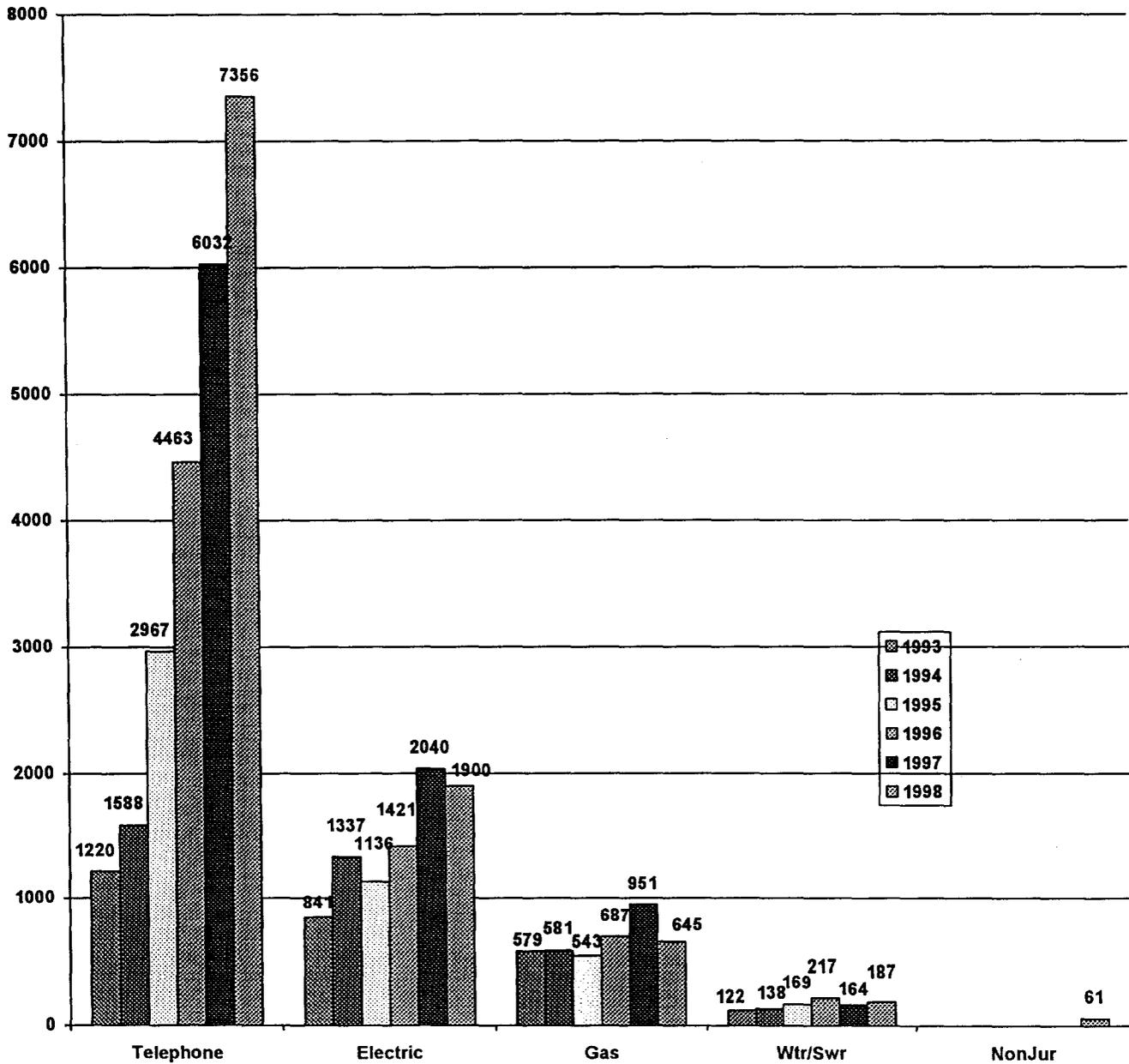
Gas complaints were lower for all the major utilities, with Wisconsin Gas (WG) showing a decrease of 202. Wisconsin Gas instituted some new collections procedures at the beginning of 1998 and this may have had an effect on the reduction of complaints. The most significant change is that WG no longer negotiates long term DPA's with customers. They now call customers with arrears each month and elicit a “promise to pay” a reasonable amount in addition to the next bill. WG DPA complaints decreased from 196 in 1997 to 62 in 1998.

The largest complaint types for gas utilities are disconnection for nonpayment issues, deferred payment arrangements, determining the responsible party for billing, refusal of service and disputed amount of gas use.

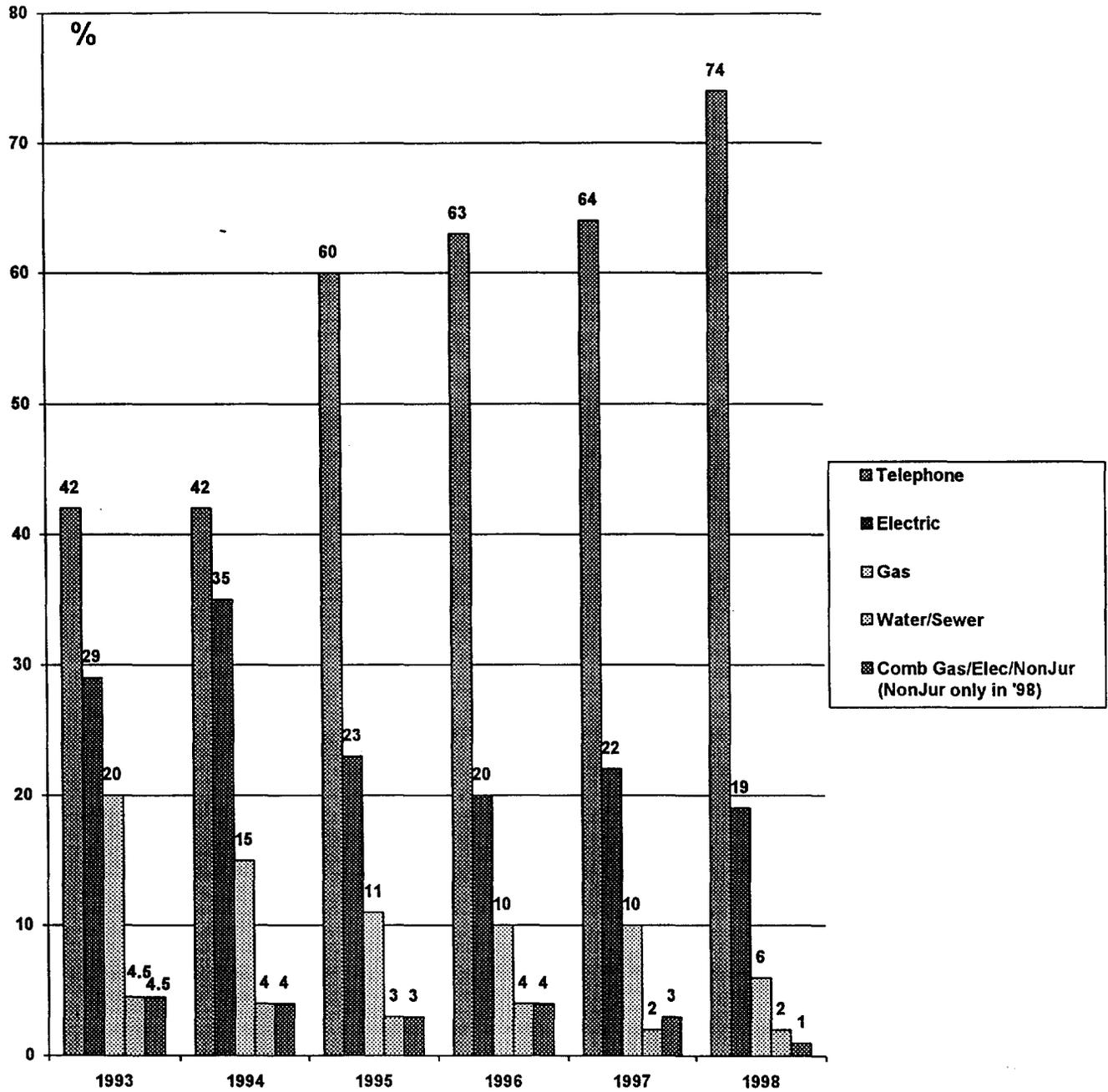
Water and Sewer

Water complaints are only 2 percent of the total. The 187 complaints received last year were a 23 percent increase over the 164 received in 1997, but a decrease of 14 percent from 1996. The largest complaint types for water utilities are disputed amount of use, disconnection issues, high rates and late payment charges.

Total Annual Complaints By Utility Type



Percentage of Total Annual Complaints By Utility Type



Complaint Validity

The new complaint system requires staff, for each informal complaint closed, to make a determination as to whether or not the substance of the complaint was justified. Realizing that this may often be a subjective decision, staff are asked to use the following definitions when making their determinations:

Complaint was justified:

This code is used if the substance of the complaint is found to be generally valid. This will always be the case if it is determined that a law or PSC Administrative Rule was violated. A complaint can be valid even if there is not a violation of a rule or statute. For example, the utility may have incorrectly applied a tariff provision, the utility may have made an error in posting a bill payment, or may have failed to make a referral to a customer assistance program (such as EIP) when warranted.

Complaint was not justified:

This code is used if the substance of the complaint is not found to be valid, i.e. the utility was not at fault and met PSC expectations in working with the customer.

Complaint was partially justified:

This code is used if it cannot be determined that the complaint was completely valid or justified, but that the utility could have taken actions to avoid the complaint. For example, no rule or statute was violated but better customer education or a better explanation to the customer was warranted.

Undecided – not enough information:

This code is used if there is not enough information to make a reasonable determination as to the validity of the complaint. Staff are encouraged to make a determination whenever possible – use of the code should be minimal.

Not applicable:

This code is used whenever recording an initial staff determination regarding the contact is not applicable, for example, when the consumer contact is recorded as an inquiry or opinion – not a complaint.

The statistics for the fourth quarter and year-to-date were:

Informal Staff Determination	4 th Quarter		Year to Date	
	#	%	#	%
Justified	583	31.3	3,124	33.2
Partially Justified	307	16.5	1,613	17.1
Not Justified	716	38.5	3,252	34.6
Undecided-Not Enough Information	228	12.2	1,145	12.2
Not Applicable	28	1.5	277	2.9
Total Closed	1862		9,411	

Note: This data is for complaints closed as of January 8, 1999.

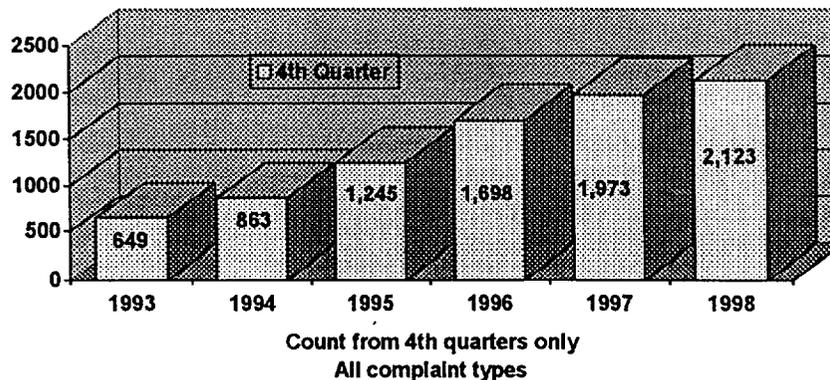
Combining the totals for justified and partially justified complaints indicates that utilities were not meeting PSC expectations for working with customers in 47.8 percent of the complaints closed in the fourth quarter. For the year-to-date, 50.3 percent of complaints were determined by staff to be at least partially justified.

1998 Fourth Quarter Complaints Totals

Complaints Continue At High Level

Public Service Commission complaints in the fourth quarter were lower than last quarter, but were still the highest fourth quarter total on record. The 2,123 complaints recorded are fewer than the record of 2,817 set in the third quarter this year. The fourth quarter complaints were a 25 percent decrease from last quarter and an 8 percent increase from the 1,973 received in the fourth quarter last year. The fourth quarter totals have increased each year since 1993 (see graph).

4th Quarter Totals



Change by Industry

Compared to the fourth quarter of 1997, the number of complaints received increased for telecommunications, electric, and water industries and decreased for the natural gas industry.

Electric complaints increased by 57 (+22%). The increase was primarily caused by an increase in complaints from municipal electric companies, as complaints from large investor owned utilities only increased by 12 over fourth quarter last year. While the increase in complaints from the municipal utilities is not large, we will continue to monitor the number of complaints received from this group.

Gas complaints decreased by 57 (-25%). A major factor in this decrease is a reduction in Wisconsin Gas Company complaints. Wisconsin Gas complaints have also been down the past two quarters. Water complaints increased by 10 (+27%), but they have stayed in the 35-50 complaint range in the fourth quarter over the past five years.

Telephone

We received 1,620 telephone complaints this quarter, which is 76 percent of the total complaints taken. Last quarter they were 72 percent of the total complaints taken. This is up from 71 percent of the total in the fourth quarter of 1997. Telephone complaints decreased by 25 percent from last quarter, but increased by 16 percent over the fourth quarter of 1997.

A factor contributing to the decrease was the fact that last quarter there was a large one-time increase of 250 complaints regarding data transfer speed for modem use. These complaints were solicited by a large Internet service provider. This quarter there were only 19 of these complaints. The decrease from the last quarter is further explained by decreases in the following complaint types: slamming, cramming, repair service, deferred payment arrangements and disconnections. These decreases are in contrast to the overall increases for these complaint types on an annual basis.

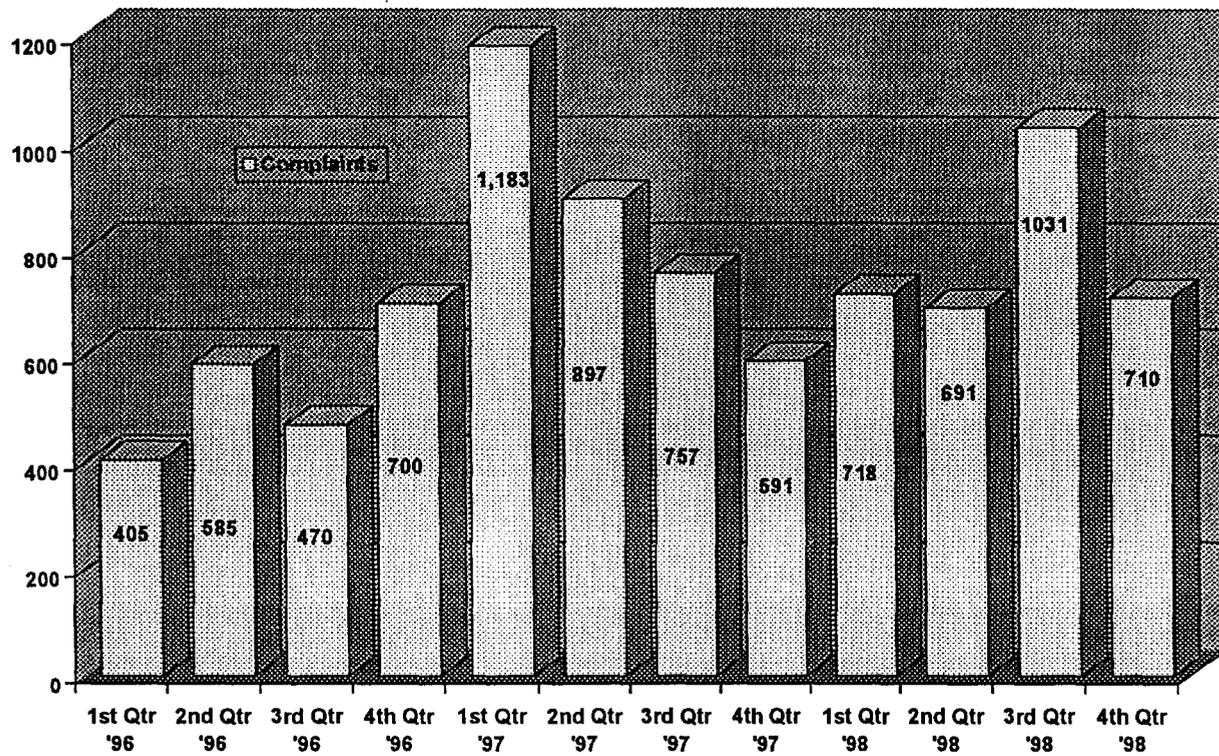
There was a notable increase in complaints regarding the recent "extra" fees being charged by phone companies. These fees include: the Presubscribed Interexchange Carrier Charge, the Universal Service Fund charge, the TEACH Wisconsin charge and the number portability charge. These complaints increased from 12 last quarter to 50 this quarter.

Ameritech complaints decreased from 1,031 last quarter to 710 in the fourth quarter - down 31 percent. However, 224 of the data transfer capability complaints mentioned above were regarding Ameritech. If these complaints are subtracted the decrease is not as extensive. Other complaint types which showed decreases were deferred payment agreements, disconnections and outage/repair. Complaints increased by 20 percent from the fourth quarter last year.

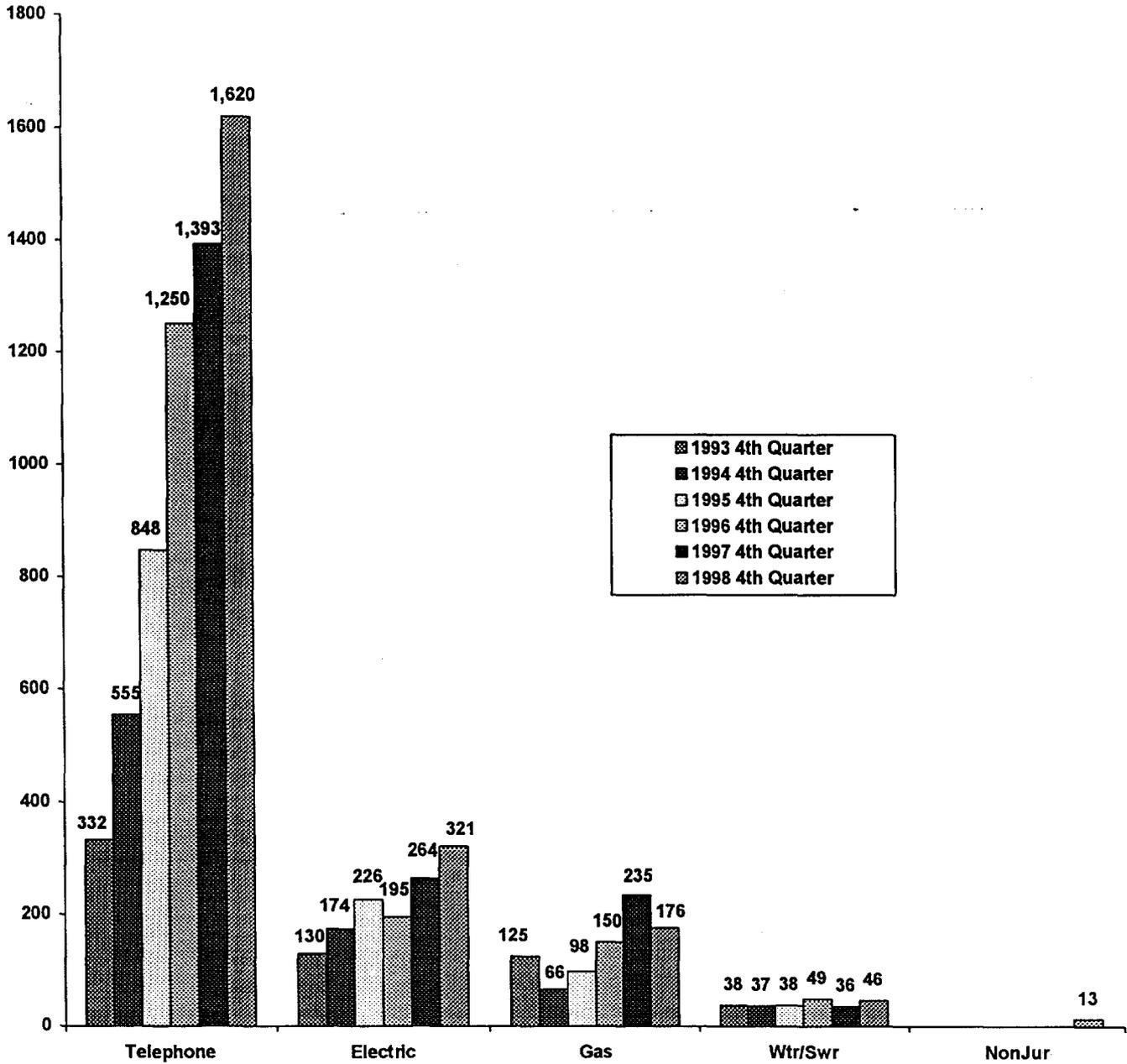
Ameritech's percentage of the total number of telephone complaints was similar to the fourth quarter last year - 42 percent in 1997 and 43 percent in 1998.

The large number of Ameritech complaints in the first quarter of 1997 was caused by an increase in complaints regarding reasonableness of deferred payment arrangements on arrearages, and disconnection of service. Staff worked extensively with Ameritech management on these issues and significant improvement occurred. The level of these complaints is of continuing concern, however, and corrective action efforts are ongoing.

The following graph shows the trend for Ameritech:



This graph shows fourth quarter trends by industry.



Note: The total for all the industry groups is higher than the total number of complaints received. Previously if a complaint for a combined gas and electric utility could not be identified as a gas or electric complaint it was coded as "combined gas and electric." Under the new system, a single complaint can be coded as gas and electric. Other combinations may also occur..

Complaints by Category

The complaint coding structure has been modified somewhat with the new system. Most of the basic complaint types are the same or similar, but the larger groupings have changed.

Fourth quarter totals for the new categories are:

	Complaints	Inquiry	Opinion	Total
Billing and Credit				
Accuracy of Bills	621	7	2	630
Billing and Credit Procedures	291	9	2	302
Disconnection and Other Terminations	441	4	1	446
Rates and Tariffs	161	9	28	198
Other	45	3	1	49
Total Billing and Credit	1,559	32	34	1,625
Service				
Obtaining Service	192	9	1	202
Quality of Service	170	6	2	178
Technical/Equipment Related Service Issues	8	1	0	9
Customer Assistance/Pilot Programs	19	1	1	21
Damage/Safety/Facility Location	27	6	0	33
Other Utility Service Related Issues	72	2	1	75
Total Service	488	25	5	518
Provider to Provider Issues	9	3	0	12
Other	67	10	4	81
Grand Totals	2,123	70	43	2,236

Definitions of the complaint categories are available upon request.

The only category which is still basically the same with the new system is service. Service related complaints increased by 261 (115 percent) over the fourth quarter last year.

With the previously mentioned data transfer speed complaints factored out, service-related complaints decreased by 45 from last quarter. The increase is a trend we often see from the third quarter to the fourth quarter. It is likely related to third quarter summer storm damage and the annual move of college students to different lodgings.

The most prevalent types of complaints for the fourth quarter in each category are:

Billing and Credit

Accuracy of Bills - Slamming (172), bill for service or feature not ordered (149), other billing errors (130), disputed amount of use (79), and charged incorrect rate (64).

- Billing Procedures - Deferred payment agreement (107), responsible party for billing (50), payment posting issues (27), bill not issued/received or arrived late (20), and due date extensions/changes (20).
- Disconnection and Other Terminations - Disconnected – nonpayment (228), and disconnection threat (198).
- Rates & Tariffs - High rate (55), other rates and tariffs (50), and access charges (19).

Service

- Obtaining Service - Initial service (73), refused service (42), additional or changed service (39), and toll and other phone service restrictions (16).
- Quality of Service - Access to customer service (65), outage/loss of service (48), repair service (34), and employee attitude/rudeness (15).
- Customer Assistance Pilot Programs – Universal Service Assistance Programs (12).
- Other Utility Service Related Issues – Data transfer capability/Internet (19).
- Other - Unwanted calls from telemarketers (7), and correctional institution pay phones (7).

Some notable increases from the third quarter were:

- Rates and tariffs – other (12 to 50)
- High rate (41 to 55)
- Initial service (61 to 73)

Some notable decreases from the third quarter were:

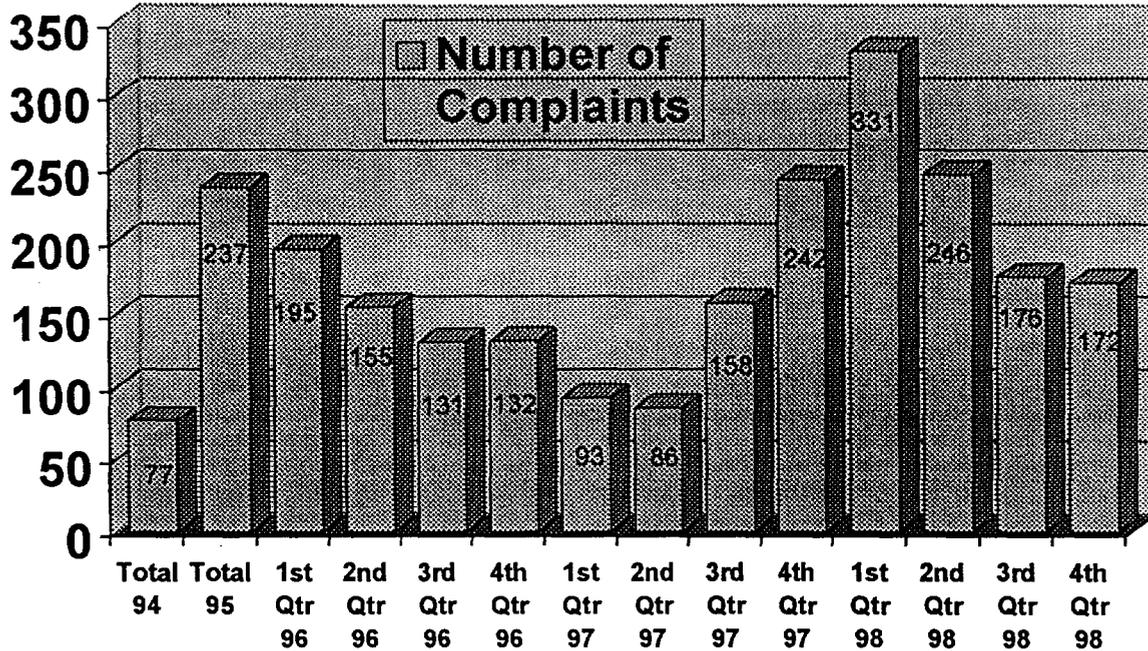
- Disconnection threat (341 to 198)
- Disconnection – nonpayment (350 to 122)
- Deferred payment arrangement (201 to 107)
- Repair service (68 to 34)

Note: Disconnection related complaints are always lower in the fourth quarter because of restrictions on disconnection of energy utility customers between November 1st and April 15th.

Slamming/Cramming

Slamming complaints continue at a high rate, with 172 complaints in the fourth quarter. This is the lowest quarterly total since the third quarter of 1997, however.

Slamming



Note: Prior to September 1, 1995, slamming complaints were included within a broader complaint code called "sales practices", so the numbers for slamming prior to September 1995 may be slightly inflated. After slamming was given an unique code, there were 11 sales practice complaints recorded in 1995.

During the fourth quarter, the interexchange carriers and resellers with the largest numbers of complaints were:

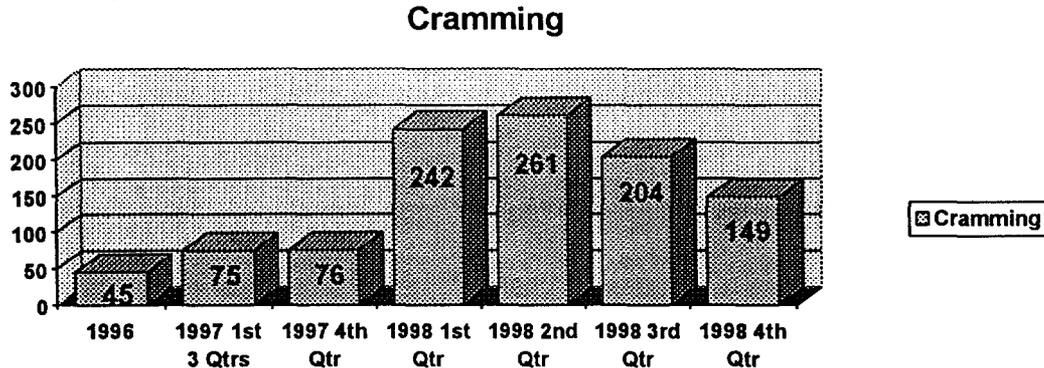
MCI.....	21
Brittan Communication Intl. Corp.....	10
US Republic.....	5
Minimum Rate Pricing, Inc.....	4
AT & T.....	4
Least Cost Routing.....	4
Quest Communications.....	4
Vista Group International.....	4
Worldcom Network Service.....	4

The four Minimum Rate Pricing (MRP) slamming complaints were all for unauthorized switches made before the Commission revoked MRP's reseller certification on August 18.

Cramming

The number of complaints regarding unauthorized adding of charges to the phone bill – known as “cramming” – continues to be high; but the fourth quarter total of 149 is the lowest of the year. This represents a 27 percent decrease from last quarter. The decrease could signal that LECs are doing a better job of resolving these complaints before they reach the PSC.

Most cramming complaints involve businesses which are not certified telecommunications companies. The two certified providers with the most complaints were Telco Partners (12) and Business Options (5).



Complaints By Utility

This section includes two tables. The first table provides information on the number of complaints received for each quarter and the 1998 and 1997 totals for each of the major utilities in each industry. The second table gives 1998 and 1997 information on the number of complaints per thousand customers (or access lines for telecommunications local exchange carriers). Customer/access line information is not available for the interexchange carriers. The information on customers/access lines comes from the annual reports which utilities file with the PSC.

Some observations from the quarterly totals table:

- Ameritech complaints decreased slightly from last year (-8%), but were still considerably higher than 1996 (+46%). The quarterly totals were steady throughout the year with the exception of the third quarter when the number of complaints regarding modem speed capability, obtaining service, repair service, and access to customer service increased.
- Complaints increased for all three major interexchange carriers. MCI was up by 277 (170%), Sprint was up 32 (68%) and AT&T increased by 51 (22%). Most of the complaints were about accuracy of bills and issues such as disputed calls, charging incorrect rates, slamming and new charges for interconnection and universal service.
- In general, energy utilities have larger numbers of complaints in the second and third quarters when the cold weather moratorium on disconnections is not in effect.

- Wisconsin Gas Company Complaints decreased by 29 percent. Wisconsin Gas instituted some new collections procedures at the beginning of 1998 and this may have had an effect on the reduction of complaints. The new procedures were the result of a reengineering project.
- Wisconsin Electric Power Company complaints decreased by 20 percent. They took steps to improve their Early Identification Program in 1998.
- Wisconsin Public Service Corporation complaints decreased by 14 percent and there was little change for the other energy utilities from the 1997 levels.

Some observations from the “complaints per thousand table:”

- Ameritech has a higher complaint rate than GTE, but the Ameritech rate is lower than last year, while the GTE rate is higher.
- The natural gas complaint rates dropped or stayed the same for all companies.
- The electric complaint rate increased for Madison Gas and Electric and Northern States Power. It decreased or remained the same for the other electric utilities.
- Wisconsin Public Service Corporation continues to have the lowest complaint rate of all the larger utilities.
- There are generally higher complaint rates for electric utility customers than for gas utility customers. One explanation for this may be that the largest numbers of complaints are related to disconnections for nonpayment and utilities usually disconnect electric service even if the customer is in arrears for electric and gas service. This is because electric service is easier to disconnect from a labor standpoint and it is of greater value to the customer than gas service during warmer weather.

Complaints by Major Utilities - 1998

	<u>1st Qtr</u>	<u>2nd Qtr</u>	<u>3rd Qtr</u>	<u>4th Qtr</u>	<u>'98 Total</u>	<u>'97 Total</u>
Telecommunications						
<u>Local Exchange Carriers</u>						
Ameritech	718	691	1,031	710	3,150	3,428
GTE	155	156	168	145	624	547
<u>Interexchange Carriers</u>						
AT&T	65	76	67	75	283	232
MCI	115	111	96	118	440	163
Sprint	24	31	12	12	79	47
Energy Utilities						
<u>Gas Only</u>						
Wisconsin Gas	54	171	123	145	493	695
Wisconsin Fuel & Light	1	3	1	3	8	8
<u>Gas and Electric</u>						
Wisconsin Electric Power	129	540	349	192	1,210	1,516
Wisconsin Public Service Corp.	15	49	44	24	132	154
Northern States Power	16	85	35	18	154	143
Madison Gas & Electric	12	66	58	15	151	151
<u>Gas, Electric & Water</u>						
Wisconsin Power & Light	49	134	96	61	340	344
Superior Water, Light & Power	7	13	10	8	38	36
Water Utilities						
Milwaukee Water	11	18	7	5	41	48

Complaints Per 1,000 Customers/Access Lines 1998

	<u>Access Lines</u> ¹	<u>Total Complaints</u>	<u>Per 1,000</u> <u>'98</u>	<u>'97</u>
<u>Telephone</u>				
Ameritech	2,094,488	3,150	1.50	1.71
GTE	458,512	624	1.36	1.17
<u>Natural Gas</u>				
	<u>Customers</u> ²	<u>Total Complaints</u>	<u>Per 1,000</u>	
WGC	514,602	493	0.96	1.38
WEPCO	370,027	74	0.20	0.45
WPSC	209,427	29	0.14	0.15
WP&L	146,983	25	0.17	0.32
MG&E	106,042	12	0.11	0.30
NSP	70,313	12	0.17	0.30
WF&L	48,398	8	0.17	0.17
SWL&P ³		7		
<u>Electric</u>				
WEPCO	947,611	1,136	1.20	1.44
WP&L	396,225	310	0.78	0.77
WPSC	362,238	103	0.28	0.35
NSP	215,231	142	0.66	0.60
MG&E	122,060	139	1.14	0.99
SWL&P		24		
<u>Water</u>				
Milwaukee Water	161,914	41	0.25	0.30

¹ The most recent data is from 1997 annual reports. Data on number of customers is not available.

² Customer data is from 1997 annual reports

³ Customer data for Superior Water Light and Power is filed confidentially.

1998 QUARTERLY COMPLAINT COUNT BY UTILITY TYPE

	TELE	ELEC	GAS	WATER/ SEWER	NON- JUR
Billing and Credit	1511	187	75	44	10
Service	296	25	11	4	0
Provider to Provider	7	1	0	1	0
Other	66	3	3	5	4
1st Quarter Total	1880	216	89	54	14
YTD Total	1880	216	89	54	14
Billing and Credit	1446	642	185	42	16
Service	300	133	21	1	3
Provider to Provider	7	0	0	1	0
Other	82	8	3	1	1
2nd Quarter Total	1835	783	209	45	20
YTD Total	3715	999	298	99	34
Billing and Credit	1290	479	145	35	10
Service	658	95	24	2	1
Provider to Provider	23	2	0	4	3
Other	50	4	2	1	0
3rd Quarter Total	2021	580	171	42	14
YTD Total	5736	1579	469	141	48
Billing and Credit	1177	241	137	37	8
Service	373	76	38	7	3
Provider to Provider	10	0	0	1	1
Other	60	4	1	1	1
4th Quarter Total	1620	321	176	46	13
Annual Total	7356	1900	645	187	61

Note: Totals from the first three quarters may differ slightly from the previous reports, because some corrections have been made to previous recording errors.

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