

DOCKET FILE COPY ORIGINAL

ORIGINAL

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

RECEIVED  
MAR 18 1999  
FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

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

**COMMENTS OF BELL ATLANTIC<sup>1</sup> ON FURTHER NOTICE**

Bell Atlantic commends the Commission for adopting strong, forthright rules to help detect unauthorized changes of presubscribed carriers and to provide strong disincentives for carriers to engage in such practices. With the dramatic growth of local and intraLATA toll competition, the number of slamming opportunities will, unfortunately, proliferate. The new rules will protect the public and help ensure that consumers' choices of carriers are honored. With strong enforcement measures for repeated and willful violations, including stiff fines and potential withdrawal of authority to provide telecommunications services for egregious infractions, the Commission can keep unscrupulous providers from profiting unlawfully at the expense of consumers and of the many honest providers of telecommunications services.

---

<sup>1</sup> The Bell Atlantic telephone companies ("Bell Atlantic") are Bell Atlantic-Delaware, Inc.; Bell Atlantic-Maryland, Inc.; Bell Atlantic-New Jersey, Inc.; Bell Atlantic-Pennsylvania, Inc.; Bell Atlantic-Virginia, Inc.; Bell Atlantic-Washington, D.C., Inc.; Bell Atlantic-West Virginia, Inc.; New York Telephone Company; and New England Telephone and Telegraph Company.

No. of Copies rec'd 014  
List A B C D E

---

Some of the additional proposals in the Further Notice<sup>2</sup> will further these goals, while others will result in unnecessary costs and burdens while producing few if any public interest benefits. Bell Atlantic addresses several of the Commission's proposals below.

1. Resellers and CICs: The Commission appropriately is looking for a way to control "soft slams," *i.e.*, where a subscriber is changed, without authorization, to a switchless resale carrier with the same carrier identification code ("CIC") as the authorized facilities-based carrier. *See* FNPRM at ¶ 146. As the Commission correctly points out, this problem is particularly difficult to detect, because the local exchange carrier is not notified, and, therefore, a soft slam may bypass a subscriber's preferred carrier freeze instruction. *Id.* at ¶ 147. Moreover, even the customer may be unaware of the switch, because the name of facilities-based carrier continues to appear on the bill. *Id.*

The Commission proposes three possible ways to identify switchless resellers and distinguish them from the facilities-based carrier. The first proposal, requiring resellers to obtain individual CICs, is the most feasible and could be implemented quite quickly, at relatively low cost. If each reseller had its own CIC and could accept only traffic routed to that CIC from local exchange carriers, then preferred carrier changes to switchless resellers would be handled just like changes to facilities-based carriers are handled today. As a result, the authorized carrier would be informed that a change of the customer's carrier had taken place and when. This would enable the

---

<sup>2</sup> *Second Report and Order and Further Notice of Proposed Rulemaking*, FCC 98-334, ¶¶ 139-84 (rel. Dec. 23, 1998) ("Further Notice").

authorized carrier (working, as appropriate, with the executing carrier) to begin the process of reversing the slam in the same way as if the unauthorized change had been to a facilities-based carrier with its own CIC.

The executing carriers would incur the same switch translation costs for resellers' CICs that they do with facilities-based carriers' CICs. Bell Atlantic currently charges facilities-based carriers for each new CIC that covers those costs and should be permitted to assess the same charge for new reseller CICs.

The most serious concern with this proposal is its impact on CIC exhaustion. This issue should be addressed in the Commission's open docket on CICs, *Administration of the North American Numbering Plan Carrier Identification Codes*, CC Docket No. 92-237. As the Commission points out, however, the industry has recently completed the transition period to four-digit CICs, and a number of new CICs can be made available for assignment. So long as the Commission ensures that resellers and facilities-based carriers both use CICs for appropriate purposes, including the purposes proposed for CICs in this proceeding, there should be sufficient CICs to avoid premature exhaustion.

2. Independent Third-Party Verification: The Commission should continue to require carriers to obtain independent verification of changes of a customer's presubscribed carrier obtained through telemarketing. The Commission should also continue to allow a telemarketer to initiate a call to the independent verifier with the subscriber on the line. Such calls, as the Commission points out, are often the most time- and cost-efficient means of verifying a carrier change. Further Notice at ¶ 166. In

---

addition, use of such calls would avoid the need for the verifier to bother the subscriber by initiating yet another call to confirm the change of carriers to which the customer has ostensibly already consented on the first call.

While verifiers should be permitted to provide information about the carrier change and freeze processes, they should not be allowed to provide any information about the services of the competing carriers. *See id.* at ¶ 96. This restriction will allow the verifiers to respond to any customer inquiries and confusion about the changes that are being verified and respond to questions about freezing their presubscribed carrier but avoid the possibility that the verification, itself, could be viewed as telemarketing on behalf of a carrier. Similarly, to avoid customer confusion and inconvenience, there is no reason that a single call should not be able to verify a customer's call to an executing carrier both to request a change of a preferred carrier and to add a freeze.

The Commission should recognize that the current requirement that automatic number identification ("ANI") may constitute the only method of identifying a line in connection with electronic verification is no longer appropriate. *See* 47 C.F.R. § 64.1100(b). First, that requirement means that a customer with several lines would not be able to change the presubscribed carrier with one call – each separate line would need to be independently verified. This is time-consuming and inconvenient for the customer. Second, for some services, such as multi-line hunt groups, PBX trunks, and DID trunks, the ANI would not necessarily reflect the actual telephone number of the line that is in use. Instead, the ANI might report the billing number or one line of the hunt group, regardless of which telephone number is dialed. This could make it impossible to verify

---

the ANI of each customer line and would prevent the verifier from complying with the rule. Third, by continuing to restrict electronic verification to only ANI, customers would be denied the convenience of placing calls from another telephone (such as from a work phone or a mobile telephone to change a residential carrier or add or remove a freeze), because the home number would not match the ANI. With today's lifestyles, it may not be possible for residential customers to call a business office from home during regular business hours. Mandatory use of ANI could eliminate electronic verification as an option for many customers. Therefore, the Commission should modify its electronic authorization rules to specify that ANI is not the only permissible verification method.

The Commission also asks about using of automated verification systems as a third party verification method. Further Notice at ¶ 167. The automated system which the New York Public Service Commission requires Bell Atlantic to implement satisfies the requirement for independent third party verification. That system, adopted simultaneously with this Commission's release of the Further Notice, allows a customer to dial an 800 number and provide voice or touch-tone responses to a series of recorded prompts to impose or lift preferred carrier freezes.<sup>3</sup> Verification is accomplished by the

---

<sup>3</sup> *Order Adopting New York Telephone Company's IntraLATA Freeze Plan with Modifications*, Case Nos. 28425, 92-C-0665, 95-C-0154, 95-C-0650, and 96-C-1041 (NY PSC, Dec. 23, 1998). A copy is attached.

customer entering certain digits (other than the telephone number) that appear on the bill.<sup>4</sup>

By allowing customer verification, implementation, and lifting preferred carrier freezes without participation of carrier or third party verifier personnel, the New York system satisfies Commission concerns about improper incentives, financial or otherwise, to affirm carrier freezes improperly. *See* Further Notice at ¶ 71. Bell Atlantic does not own, manage, control, or direct the supplier of the automated system and does not have an exclusive agreement with the system supplier. Further, the automated system is in a location separate from carrier telemarketing personnel. Accordingly, it satisfies the Commission's stated concerns regarding physical separation of telemarketing personnel and the verifier. *Id.*

3. Carrier Changes Using the Internet: The Commission asks whether a carrier change submitted over the Internet should be considered a valid letter of authorization and not require independent verification. *Id.* at ¶ 171. Given the current state of technology, it is difficult to verify the identity of a person making a carrier change request over the Internet. For this reason, Bell Atlantic does not accept electronic mail messages to remove freezes or make preferred carrier changes. As the technology evolves, the Internet should become a reliable method of submitting carrier changes or freezes.

---

<sup>4</sup> If the customer does not correctly use the automated system or dials "0," the customer will be transferred to Bell Atlantic personnel, who are barred from engaging in marketing activities and may simply advise the customer how to access and use the automated system. If the customer declines to use the automated system but desires to implement a freeze, Bell Atlantic will process the request by other means that are consistent with Commission requirements.

The Commission also asks whether, if the customer were to provide additional information, such as a credit card, social security number, or mother's maiden name, that information would provide sufficient protection against unauthorized changes over the Internet. *Id.* at ¶ 172. Any of those mechanisms would be reliable to prevent slamming only if the slamming carrier itself does not have access to that verification information. If a carrier is sufficiently unscrupulous that it is willing to impersonate the customer by submitting an unauthorized Internet order, however, the Commission cannot be confident that the carrier will not also find a way to obtain the verifying information.

4. Definition of "Subscriber": The Commission asks what members of a household should be considered "subscribers" and permitted to authorize carrier changes. *Id.* at ¶¶ 176-78. Bell Atlantic currently permits either spouse to authorize a carrier change, unless the named subscriber has instructed otherwise. Unless authorized by the named subscriber, Bell Atlantic will not accept carrier change instructions from children and other household members. This arrangement has generally worked efficiently and the Commission could reasonably adopt it.

5. Submission of Reports: The Commission should not require carriers to submit reports on the number of slamming complaints they receive, as it proposes. *See id.* at ¶ 179. The number of complaints received is not necessarily the same as the number of slams that actually occur, and investigation may show that many of the reported carrier changes were, in fact, authorized. Moreover, many customers complain to the incumbent local exchange carrier when they believe that they have been slammed by another carrier, and the incumbent should not be held responsible for reporting

---

complaints that do not involve its service. Instead, the Commission should encourage customers who believe they have been slammed to report the unauthorized change to the Commission. The Commission can use those customer complaints to give it the early warning about slamming that it desires without imposing yet another reporting requirement on carriers. If the Commission still wants carrier reports, however, it should limit them to reports from *authorized* carriers of the purported slams that they have investigated and found to be valid. In this way, the reports would reflect actual cases of slamming, not uninvestigated allegations.

6. Registration Requirement: The Commission asks whether it should impose a registration requirement on carriers that wish to provide interstate telecommunications service. This, the Commission says, would allow it to prevent carriers with a history of fraud from offering telecommunications services. *See id.* at ¶¶ 180-82. While the goal is a valid one – unscrupulous carriers should be barred from the marketplace – there is no need to impose such an additional registration burden. All interstate telecommunications carriers, including resellers, are already required to file annual reports in connection with Telecommunications Relay Service (TRS). *See* 47 C.F.R. § 64.604(c)(iii)(H). The Commission should simply use the TRS reports to identify such carriers, in lieu of a separate registration.<sup>5</sup> Nor should the Commission put the burden on other carriers to peruse the registrations to ascertain whether a potential

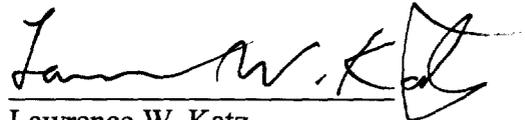
---

<sup>5</sup> The TRS rules require the revenue data contained in the reports to be kept confidential. 47 C.F.R. § 64.604(c)(iii)(I). Therefore, the reports should be used solely to identify the carriers, without making public any of the operating data used for TRS funding.

carrier-customer has filed a registration. Instead, the Commission should adopt severe penalties both on companies that operate unlawfully as carriers and on the principals of those companies with actual knowledge of such unlawful operation.<sup>6</sup>

Accordingly, the Commission should resolve the issues raised in the Further Notice in the manner discussed above.

Respectfully submitted,



Lawrence W. Katz  
1320 North Court House Road  
8th Floor  
Arlington, Virginia 22201  
(703) 974-4862

Attorney for the Bell Atlantic  
telephone companies

Michael E. Glover  
James Pachulski  
Of Counsel

March 18, 1999

---

<sup>6</sup> These sanctions could include fines and disqualification of the principals from holding Commission licenses.

STATE OF NEW YORK  
PUBLIC SERVICE COMMISSION

At a session of the Public Service  
Commission held in the City of  
New York on June 3, 1998

COMMISSIONERS PRESENT:

Maureen O. Helmer, Chairman  
Thomas J. Dunleavy  
James D. Bennett

- CASE 28425 - Proceeding on Motion of the Commission as to the Impact of the Modification of the Final Judgment and the Federal Communications Commission's Docket 78-72 on the Provision of Toll Service in New York State, filed in C 28425.
- CASE 92-C-0665 - Proceeding on Motion of the Commission to Investigate Performance-Based Incentive Regulatory Plans for New York Telephone Company.
- CASE 95-C-0154 - Joint Complaint of AT&T Communications of New York, Inc, and MCI Telecommunications Corporation Against New York Telephone Company Concerning Establishment of a Schedule to Implement IntraLATA Presubscription in all New York Telephone Company End Offices by not Later than December 31, 1995, filed in C 28425.
- CASE 95-C-0650 - Joint Complaint of MCI Telecommunications Corporation, AT&T Communications of New York, Inc., Sprint Communications Company L.P. and the Empire Association of Long Distance Telephone Companies, Pursuant to Section 97 of the Public Service Law, Against New York Telephone Company Presubscription in NYNEX Service Territories in New York State.
- CASE 96-C-1041 - Ordinary Tariff Filing of New York Telephone Company to Revise its IntraLATA Presubscription (ILP) Tariff.

ORDER ADOPTING NEW YORK TELEPHONE COMPANY'S  
INTRALATA FREEZE PLAN WITH MODIFICATIONS

(Issued and Effective December 23, 1998)

BY THE COMMISSION:

SUMMARY AND BACKGROUND

By order dated December 15, 1997<sup>1/</sup>, the Commission denied a petition by Sprint Communications Company, L.P. (Sprint) to rehear the Order Directing Revised ILP Tariffs<sup>2/</sup>, but directed an examination of the process that New York Telephone Company (NYT) utilizes to freeze and unfreeze customers' intraLATA accounts. Sprint had alleged that many intraLATA Primary Interexchange Carrier (PIC)<sup>3/</sup> change orders were being improperly rejected by NYT. In the December 15 Order, the Commission concluded that the method NYT uses to process PIC changes for customer accounts with LPIC freezes merits modification and invited comments on two alternatives to the three-way conference call confirmation method:

- independent third-party verification; and/or,
- a voice mail system provided by the Local Exchange Company (LEC) that would permit a sales agent, while a prospective customer is on the telephone, to record and provide confirmation for the customers request to "unfreeze" the account so that a LPIC change may be processed. This system would be operable 24 hours a day, 7 days a week and NYT would not be permitted to reject a LPIC change request until retrieving the voice mail data.

Comments were received from AT&T Communications of New York, Inc. (AT&T), LCI International Telecom, Inc. (LCI), MCI Telecommunications Corporation (MCI), Sprint Communications Company, L.P. (Sprint), and New York Telephone Company (NYT).

---

<sup>1/</sup> Case Nos. 28425 et al. Order Granting in Part and Denying in Part Petition for Reconsideration (Issued December 15, 1997).

<sup>2/</sup> Cases 28425, et al. Order Directing New York Telephone Company to File by Revised Tariffs Implementing IntraLATA Presubscription (Issued December 1, 1995).

<sup>3/</sup> The term 'LPIC' refers to a customer's intraLATA interexchange carrier. The term 'PIC' will be used in this memorandum to refer to the customer's interLATA interexchange carrier.

NYT was directed to demonstrate that intraLATA customer accounts frozen after the implementation of intraLATA presubscription (ILP) were the result of an affirmative request. It was also directed to obtain and keep the information necessary to verify that an end-use customer requested a freeze for each service frozen. Based on our review, we conclude that NYT has kept accurate records of its LPIC customer freeze status and that its records sufficiently demonstrate that freezes have been properly implemented in the past. The Commission also adopts NYT's plan, with modifications, to administer customer freezes through an automated 800 number. This system should streamline the freeze/unfreeze system and minimize competitive concerns of carriers seeking to obtain customers.

#### COMMENTS

The commenters, exclusive of NYT, generally stated that NYT abuses its position as the provider of the network by unilaterally freezing customers' LPICs and that such actions are anti-competitive.

Carriers stated that numerous options should be available for customers to administer freeze options. AT&T suggested that the three-way conference call should remain available at the discretion of the interexchange carriers. It also advocated the use of a voice mail system and independent third party verification (TPV) as alternatives to the three-way conference call.

LCI proposed that a number of LPIC freeze options be available, including three-way conference calling and Realtime PIC Processing, which NYT withdrew on an interstate basis. LCI also suggested that, ultimately, a third-party clearinghouse model should be adopted to execute all PIC freeze changes. Absent such a clearinghouse, LCI recommended that the Commission require NYT to reinstate the three-way conference calls subject to monitoring by LCI sales representatives to prevent anti-competitive activity by NYT representatives.

MCI urged that the Commission adopt a rule that all LPIC and PIC change requests handled by third party verification (TPV) should be processed by NYT, regardless of the PIC freeze status of the account. It also advocated a voice mail system as an acceptable alternative. Like LCI, it supported an independent third-party LPIC and PIC administrator.

Finally, Sprint supported independent TPV with costs initially shared between the interexchange carriers and the LEC. These costs would eventually be passed on to the end user in a charge similar to the PIC change charges. In the alternative, Sprint suggested that the voice mail system would be satisfactory, if certain conditions were fulfilled. These include an audit and control process.

NYT responded that several methods are currently available to administer LPIC freezes - customers may call or write a letter directly to NYT to request a change in their PIC freeze status. NYT suggested an alternative to those proposed by the Commission and the commenters - an automated freeze/unfreeze system accessed directly by the customer through an 800 number. This system would be used both to freeze and unfreeze LPICs and would operate as follows:

- The customer would access the system by dialing an 800 telephone number.
- The system would prompt the customer to enter his or her telephone number, along with three additional digits from the account number.
- The customer would be prompted to indicate the action requested (PIC freeze, unfreeze, LPIC freeze, unfreeze).
- The system would automatically forward the customer's request to ICRIS (Interactive Customer Record Information System) for processing.
- If any of the steps is incorrectly performed, or if the customer presses "0" during the call, the customer would be transferred to a service representative queue or would be prompted to call the service center during business hours.

The proposed system would build upon the existing automated account information system used by NYT. Therefore, the costs of the system would be minimal. The company estimates that full implementation of this system could be accomplished within a period of nine months to a year.

NYT explained that both voice mail and the three-way conference calls are unwieldy and are inferior alternatives to the automated 800 system. It pointed out that the voice mail method is the least efficient alternative, since it would require someone to replay the tapes, transcribe the requests and then enter them into NYT's systems. It would have the drawback of having a low accuracy rate due to unintelligible messages or ambiguous requests. Moreover, it stated, the three-way conference call option is "rife with opportunities for friction between carrier personnel and NYT personnel." (NYT comments at 4). NYT argued that maintaining the system would continue to produce complaints by competitive carriers of improper actions by NYT personnel to "win back" the customer.

NYT did not support the proposed independent TPV system because it would be expensive and less efficient than the 800 system it proposed. It completely discounted MCI's proposal that if an LPIC change has been verified by an independent TPV pursuant to FCC rules, that this should override any PIC freeze in place. NYT properly stated that the PIC freeze option is specifically designed to afford customers protection against slamming and that allowing this change would defeat the purpose of the PIC freeze. NYT also found that a second TPV in addition to that required for a LPIC change would be costly and less efficient than the proposed 800 system.

#### DISCUSSION

##### Verification of Freeze Process

The current status of a customer's PIC and LPIC freezes is available from the NYNEX Subscription System (NSS) and the Interactive Customer Record Information System (ICRIS). The information is available to both NYT and interexchange

carriers.<sup>1/</sup> Previous freeze activities with a customer account are retained by ICRIS for six months. Afterward, this information is transferred to microfiche, and retained for six years. NYT states that this information is accurate and reliable and "demonstrates" that freezes have been properly implemented in the past.

NYT supplied staff with a description of its procedures, and representative records from the ICRIS system. This was used to demonstrate the reasonableness of the company's procedures. The records indicate that NYT retains sufficient information to verify whether a particular customer's account was handled correctly. It appears that NYT has kept accurate records of its LPIC customer freeze status and that its records sufficiently demonstrate that freezes have been properly implemented in the past. However, if competitors believe that the matter of unrequested PIC and LPIC freezes is a continuing problem, they can provide staff and NYT with information on specific accounts. NYT can then respond with the appropriate information from either NSS, ICRIS or microfiche.

#### LPIC Freeze Administration

Of the recommended alternatives to administer freezes (voice mail, TPV, three-way conference calls, and third-party PIC freeze administration), the automated 800 system appears to be the most customer-friendly and cost effective method.

AT&T and MCI agree that the automated system would be acceptable, while Sprint does not, and LCI offers no opinion. Sprint believes that the requirement for customer interaction with the system, the need for a password based on the customer's account number, and the intervention of a NYT representative in

---

<sup>1/</sup> Contrary to AT&T's assertions, PIC and LPIC freeze information is offered by NYT to interexchange carriers. Bulk reports are offered on a monthly basis at \$0.02 per reported account, or on an ad hoc basis at \$0.03 per request.

case of a problem with the system weigh against its consideration.

The freeze administration method that is ultimately implemented must be secure, verifiable, and must not place unreasonable requirements on the customer. The automated 800 number system appears to most reasonably meet all of these criteria. The complaint that a NYT representative may intervene if the automated system does not work properly would be equally true for any freeze system that could be devised. The merit of NYT's proposed system is that it is likely to minimize customer contacts with NYT representatives.

We agree that the use of voice mail is problematic due to the potential for unintelligible messages that could be misconstrued by the transcriber. Three-way conference calls were the subject of many complaints by the interexchange carriers that NYT was trying to "win back" their customers. It is difficult to see how maintaining this system will be any less controversial than it has been in the past. Finally, TPV and third-party PIC administration result in additional costs which will be ultimately passed on to customers. Therefore, we will direct NYT to implement the automated 800 system for all PIC freeze administration that pertains to intrastate services subject to certain conditions that will help customers avoid unauthorized PIC changes and accomplish the goal of competitively neutral PIC administration.

In addition to the features detailed by NYT with respect to the automated system, the Commission requires:

- (1) that if the system defaults to a NYT customer representative, the representative shall be prohibited from marketing NYT's service or trying to "win back" the customer;
- (2) that to avoid customer confusion, the system should be effective for all PIC frozen accounts affecting intrastate service;
- (3) that the system be substantially in operation within six months;
- (4) that NYT inform customers of the purpose of the system, including instructions on how to use it in a bill insert when the system is implemented;
- and (5) NYT must print the freeze status of all

LPICs and PICs on a customer's bill at least annually and include instructions on how to use the system during the same billing cycle on an annual basis.

Emergency SAPA Adoption

This order is adopted on an emergency basis pursuant to State Administrative Procedure Act Section 202(6). The immediate adoption of this rule setting forth an efficient and competitively neutral method of PIC freeze administration is necessary to enable consumers to avoid being slammed and to promote competition. Therefore, timely approval and implementation of NYT's 800 number call-in system is essential to promote and preserve the general welfare of New York.

The Commission orders:

1. This action is taken on an emergency basis pursuant to SAPA §202(6).

2. New York Telephone Company is directed to maintain records of all PIC freezes and unfreezes affecting intrastate service for a period of 6 years.

3. New York Telephone Company is hereby prohibited from altering any customer's LPIC selection or freezing or unfreezing a PIC absent an affirmative request.

4. New York Telephone Company is ordered to implement the 800 number call-in system for PIC freeze administration for all PICs that may complete an intrastate call within 6 months.

5. New York Telephone Company customer representatives shall be prohibited from marketing or attempting to "win back" customers if a call to the 800 freeze administration number defaults to the customer service system.

6. New York Telephone Company is ordered to insert a notice detailing the purpose of the system in each customer bill along with instructions on its use in the billing cycle prior to its implementation.

7. New York Telephone Company is ordered to print the freeze status of all LPICs and PICs on a customer's bill at least

CASE 28425, et al.

annually along with instructions on how to use the system during the same billing cycle on an annual basis.

8. These proceedings are continued.

By the Commission,

(SIGNED)

JOHN C. CRARY  
Secretary

CERTIFICATE OF SERVICE

I hereby certify that on this 18th day of March, 1999, copies of the foregoing "Comments of Bell Atlantic on Further Notice" were sent by first class mail, postage prepaid, to the parties on the attached list.

  
\_\_\_\_\_  
Jennifer L. Hoh

\* Via hand delivery.

---

Kimberly Parker  
Common Carrier Bureau  
Federal Communications Commission  
2025 M Street, NW  
6th Floor  
Washington, DC 20554

ITS, Inc.\*