

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

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

REPLY COMMENTS OF GTE SERVICE CORPORATION

Dated: May 3, 1999

GTE Service Corporation and its affiliated
domestic companies

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SUMMARY

In the *Further Notice of Proposed Rulemaking*, the FCC asked parties to comment on whether additional rules are needed to address slamming. Many parties filed comments addressing the FCC's proposed rules. However, those comments did not result in a consensus supporting any additional rules at this time.

Given this lack of consensus and the significant cost associated with implementing new rules, GTE believes that no additional rules should be promulgated at this time. Instead, the Commission should first assess the results of the current rules and only then address whether additional rules are needed. In particular, the Commission should not: adopt a CIC or any other solution to address "soft slamming" concerns; adopt a narrow definition of the term "subscriber;" or adopt the third party proposal set forth by Lockheed Martin.

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GTE Service Corporation and its affiliated domestic companies (collectively “GTE”)¹ hereby respectfully submit reply comments in response to the comments filed in response to the *Further Notice of Proposed Rulemaking* adopted by the Federal Communications Commission (“FCC” or “Commission”) in the above-captioned proceeding.²

¹ GTE's domestic companies are: GTE Alaska Incorporated, GTE Arkansas Incorporated, GTE California Incorporated, GTE Florida Incorporated, GTE Hawaiian Telephone Company Incorporated, The Micronesian Telecommunications Corporation, GTE Midwest Incorporated, GTE North Incorporated, GTE Northwest Incorporated, GTE South Incorporated, GTE Southwest Incorporated, Contel of Minnesota, Inc., Contel of the South, Inc., GTE Wireless Incorporated, GTE Communications Corporation and GTE Long Distance.

² 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, *Second Report and Order* (“*Second Report*”) and *Further Notice of Proposed Rulemaking* (“*FNPRM*”), CC Docket No. 94-129, FCC 98-334 (released December 23, 1998).

In these reply comments, GTE responds to comments submitted by parties addressing several of the eight questions posed by the Commission in the *FNPRM*.

I. DISCUSSION

A. The Commission should not adopt a solution to soft slams at this time.

In an effort to reduce the incidence of “soft slams,”³ the Commission requested comments regarding whether switchless resellers should be required to have their own Carrier Identification Codes (CICs) or some other identifier that would distinguish them from the underlying facilities-based carriers. According to the Commission, use of an identifier would reduce soft slams by allowing each reseller to be tracked in the entire provisioning and billing process and enabling consumers to identify their final carrier throughout that process.

After reviewing the three “soft slam” solutions proposed by the FCC in the *FNPRM*, GTE commented that assigning each reseller an individual CIC is the best long-term solution to identify resellers and solve the “soft slam” problem.⁴ GTE joined several interexchange carriers (“IXCs”), however, in opposing any requirement that

³ “Soft slams” occur when a subscriber is changed without authorization to a carrier that uses that same CIC as his or her authorized carrier. This can occur when a subscriber is changed from a switchless reseller to the reseller’s facilities-based IXC, from the facilities-based IXC to a switchless reseller of the IXC’s service, or from a switchless reseller of the IXC’s service to another switchless reseller of that same IXC’s service. *FNPRM*, at ¶ 146.

⁴ GTE Comments at 4-8. GTE commented that, as an interim measure, billing entities could employ unique codes to identify non-facilities-based carriers for billing purposes. *Id.*, at 8-10.

would force carriers to implement costly switch upgrades solely to accommodate CIC expansion.⁵

Among the comments filed addressing this issue, there was almost unanimous opposition by commenters to the FCC's proposed options 2 and 3 (the use of pseudo-CICs to identify resellers and requiring facilities-based carriers to execute preferred carrier freeze protection, respectively). As such, those proposals lack the requisite record support and should be rejected.

The only option that received strong support (and also strong opposition) was the use of individual CICs to identify resellers.⁶ However, the comments on this proposal were sharply divided, even among members of the same industry segment. For example, a sampling of comments on the CIC issue reveals:

- Bell Atlantic comments that CICs are the quickest and least expensive alternative,⁷ while AT&T comments that CICs are expensive.⁸ MCI and others estimate the cost per reseller to implement CICs on a nationwide basis to ranges from \$400,000 to \$1 million.⁹

⁵ AT&T Comments at 36; MCI Comments at 15.

⁶ Some commenters supported none of the Commission's proposals. Instead, these carriers proposed that the soft slam problem could be addressed through a third party administrator for Preferred Carrier (PC) freezes. *See, e.g.* MCI Comments at 19; AT&T Comments at 40. As discussed below, GTE opposes this proposal.

⁷ Bell Atlantic Comments at 2.

⁸ AT&T Comments at 37.

⁹ For example, MCI estimated that implementing a CIC solution nationwide would cost a reseller in excess of \$500,000. MCI Comments at 18. Similarly, Sprint estimates the cost at from \$600,000 to \$1 million (Sprint Comments at 5) and the Telecommunications Resellers Association estimated the cost at between \$400,000 and \$750,000, inclusive of ASR and loading fees. TRA Comments at 7.

- AT&T¹⁰ and Ameritech¹¹ comment that CIC exhaust is likely, while Sprint comments that exhaust is unlikely due to the recent expansion of codes from three to four digits.¹²

Given the complete lack of consensus on the CIC solution, GTE believes that further research is required before a CIC solution can be adopted. For example, switch capacity for both CIC tables and total memory is limited. Expensive upgrades will be required to expand that capacity without any identified cost recovery system. Such upgrades should only be required (1) if it is determined that the cost of implementing a soft slam solution is justified by the magnitude of the soft slam problem; and (2) if it is determined that the new slamming rules adopted in the *Second Report* have no significant impact on reducing the soft slam problem.

It is clear to GTE, based on this standard, that adopting a CIC (or any other solution) to the soft slam problem at this time is premature. Thus, while GTE acknowledges the customer hardships caused by incidence of soft slams, GTE agrees with MCI WorldCom that there is “no evidence before it to suggest that ‘soft slams’ are a problem of such frequency that they require a specific regulatory solution ...”¹³

Moreover, the Commission’s new slamming rules went into effect this past week (April 27, 1999). The FCC also recently announced its rules in the Truth-in-Billing docket, and those rules should help in reducing confusion on customers’ bills. It

¹⁰ AT&T Comments at 37.

¹¹ Ameritech Comments at 8.

¹² Sprint Comments at 4.

¹³ MCI Comments at 16.

impossible at this time to evaluate the effect these new rules will have on soft slams. Therefore, given the lack of consensus on a single soft slam solution, the apparent cost of the CIC proposal, and the unknown effect of new FCC rules, the Commission should not adopt a soft slam solution at this time. However, if the Commission decides to proceed with a “soft slam” solution, an industry effort will be required to reconcile the significant differences identified by the commenting parties and to develop a reasonable solution that addresses the problem without overburdening any one segment of the industry.

B. The definition of subscriber should be as broad as possible.

In the *FNPRM*, the Commission sought comment on whether it should adopt a definition of the term “subscriber,” as that term is used in Section 258 of the Communications Act.¹⁴ Like GTE, a number of commenters agreed that the definition of “subscriber” should be as broad as possible.¹⁵ As GTE commented previously, a narrow definition of “subscriber” would negatively impact customer order processing.¹⁶ The vast majority of customers appreciate the flexibility of having more than one person authorized to make account changes. Moreover, there is little evidence to indicate that slams come from unauthorized users of a subscriber’s telephone. GTE believes that any incidents of slamming that occur as a result of unauthorized use of a subscriber’s telephone could and should be addressed by the telephone subscriber exercising

¹⁴ *FNPRM*, at 98-99.

¹⁵ *See, e.g.*, Cincinnati Bell Comments at 3; Sprint Comments at 10; Ameritech Comments at 17; SBC Comments at 14.

¹⁶ GTE Comments at 12-13.

better control over use of the telephone. Carriers should not be required to implement costly system and procedural changes to address this perceived problem.

C. The FCC lacks sufficient information to adopt the Neutral Third Party (NTP) proposal for preferred carrier changes and preferred carrier freezes.

In response to a suggestion in the *FNPRM*, several major IXCs, including AT&T, MCI WorldCom and Sprint, asked Lockheed Martin Communications Industry Service (“LMCIS”) to assess the feasibility of a centralized, neutral third party (“NTP”) administrator system to both process and track customer preferred carrier (“PC”) selections and to implement PC freeze protections. The IXCs admit that the NTP proposal developed identifies only “one way” such a proposal could be designed and implemented, and they also admit that “ a number of operational details and refinements remain to be worked out.”¹⁷

GTE agrees that the NTP proposal raises a number of issues and concerns that need to be addressed before the Commission can give the proposal serious consideration. GTE believes resolution of these issues would have significant impact on carriers operations and processes. GTE is also concerned with the justification for and cost of any NTP proposal.

1. The effect of functional and operational problems caused by the NTP proposal must be assessed.

There are significant operations and systems issues that must be addressed prior to adopting any third party solution. For example, the NTP proposal would

¹⁷ Lockheed Martin White Paper on a Neutral Third PIC/CARE Clearinghouse at 1.

require each carrier to be networked into a central administrator. The proposal would also require database management of the carrier selection information. As such, the NTP proposal would entail substantial changes to existing procedures. Carriers need time to assess the full impact of these systems and procedural changes.

2. The NTP proposal is unnecessary and cumbersome.

AT&T and MCI WorldCom argue that an NTP system is necessary because the current system is inherently discriminatory and anti-competitive.¹⁸ Furthermore, they maintain that incumbent LECs have control over critical information concerning carrier selections and freeze protections.¹⁹ The IXCs claim that the NTP would offer a common, centralized and neutral administrator to process and track PC changes and would eliminate the need for the existing direct process of data exchange between the IXCs and LECs. The NTP would support a processing system that would ensure PC orders are submitted in a standard format. In addition, the NTP would enable carriers to determine the PC-freeze status of lines. Thus, the NTP proposal would replace many of the functions now provided by the LECs.

The NTP system proposed would also perform various clearinghouse functions.

These include:

- a) Receiving PC transactions from the participating carriers in the form of a mechanized Customer Account Record Exchange ("CARE") record;
- b) Providing access to the PC service center for the mechanized transfer of CARE records;

¹⁸ AT&T Comments at 5; MCI Comments at 4.

¹⁹ AT&T Comments at 11.

- c) Accepting emergency or high priority PC changes;
- d) Distributing all relevant CARE records and ensuring receipt of appropriate confirmation records; and
- e) Maintaining and operating a call center in conjunction with other service center functions.²⁰

While the NTP proposal sounds promising in theory, GTE questions whether the neutral third party administrator envisioned in the proposal will provide any real benefits. Indeed, GTE fears that the proposal set forth will add another layer of unnecessary and harmful administration.

First, GTE questions whether the NTP proposal will provide any tangible benefits. Contrary to the bald assertions made by some IXCs, there is absolutely no evidence that incumbent LECs have behaved in an anticompetitive manner in administering PC changes and PC freezes. Thus, the NTP proposal would attempt to solve a problem that does not exist.

The proponents of the NTP maintain that their new process would be more efficient than the present CARE system. However, the CARE system is highly efficient today. GTE alone processes 3 million PC changes monthly with minimal error.²¹ GTE processes at least 25% of its PC change orders within 4 minutes via electronic bonding with two major carriers and GTE is in the process of adding a third carrier for this service. Another 25% of the PC change orders are processed in 24 hours. The remaining orders, which are not carrier-initiated, are generally processed within three

²⁰ Lockheed Martin White Paper on a Neutral Third PIC/CARE Clearinghouse at 2.

²¹ Like GTE, Ameritech, in its comments, touted its record of providing fast, accurate processing of carrier change requests. Ameritech Comments at 23.

days. Given the high level of efficiency with which GTE and other LECs perform PC changes, GTE questions whether the NTP proposal could improve on the current system.

Indeed, GTE questions whether the NTP will add any value to the CARE process. The CARE process manages the exchange of customer toll records between the carriers and the ILEC. Since the NTP will only perform preliminary edits in the PC change process, the bulk of the CARE process will remain with the ILEC. The NTP will simply be a conduit of PC change information between IXCs and LECs. Thus, the NTP will duplicate process, but add little value to the PC change process.

Second, GTE is concerned that the NTP proposal will slow down the carrier change process and possibly lead to additional slamming complaints. In order for the NTP to be able to perform the functions envisioned under the proposal, all LECs and IXCs providing service within defined geographic areas would have to send all PC records to the NTP. Thus, all PC and PC freeze orders would be go through the NTP before reaching the LEC for processing. GTE is concerned that introducing an additional step in processing PC orders will necessarily result in decreased efficiency.

GTE is concerned, further, that introducing an NTP into the PC change process will have the unintended consequence of increasing the incidence of unintentional slamming. As more participants become involved in the process, the chance for errors increases as data is transferred between entities.

For the reasons stated above, GTE questions whether the NTP proposal will add any tangible benefit to the carrier change and PC freeze processes. Accordingly, GTE

does not believe the proponents of the NTP system have justified adopting the NTP proposal.

3. Before any third party proposal can be assessed, information must be gathered about the cost of the proposal and how such costs will be funded.

Typically, assessment of any proposal entails weighing the costs of the proposal against the benefits. In the previous section, GTE questions the benefits to be gained from implementing the NTP proposal. Assuming any tangible benefits can be established, those benefits cannot be judged until and unless more information is learned about the costs of the NTP proposal and how such costs will be funded.

In seeking comment on third party proposals in general, the Commission noted that the proposals offered to date do not “offer concrete proposals for funding such an administrative scheme.” As such, the Commission specifically requested that “proposals for such third party administration should include specific and detailed information regarding the cost of setting up such a system.”²²

Yet, like the Third Party Administrator proposal submitted by a group of IXCs,²³ the proponents of the NTP system do not provide any cost estimates. As such, neither the FCC nor the industry has sufficient information to determine whether any third party system is either feasible or justified.

²² *FNPRM*, at 103 (¶ 184).

²³ *See Public Notice*, Common Carrier Bureau Announces Deadline for Filing Comments on MCI WorldCom’s Joint Petition for Waiver of Slamming Liability Rules and Third Party Administrator Proposal CC Docket No. 94-129, DA 99-683 (released April 8, 1999).

II. CONCLUSION

Both the Commission and the telecommunications industry have spent significant time and resources identifying potential solutions to the slamming problem. A number of those alternatives have already been put in place. The Commission must allow time to evaluate the effectiveness of these measures before additional costly and administratively burdensome requirements are ordered. GTE strongly urges the Commission to review the recently ordered verification and liability process modifications before any additional changes are ordered to control the slamming problem.

Dated: May 3, 1999

Respectfully submitted,

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