

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

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In the matter of)
)
Implementation of the Subscriber)
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

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AMERITECH REPLY

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AMERITECH REPLY

I. INTRODUCTION AND SUMMARY

The Ameritech Operating Companies (Ameritech) respectfully submit this reply to comments on the Commission's Further Notice of Proposed Rulemaking (*Notice*) in the above-captioned matter. In this reply, Ameritech addresses two issues: (i) the proposal of AT&T/MCI WorldCom/Sprint (joint proposal) to establish a new infrastructure to perform various tasks related to presubscribed carrier (PC) selections and PC protection; and (ii) proposals for addressing certain unique issues presented by switchless resellers.

As discussed below, the Commission should reject the joint proposal. It is an overly expensive and overly cumbersome approach to issues that can be addressed through far narrower measures.

Ameritech also urges the Commission to require all carriers that execute carrier changes, including switchless resellers, to transmit to the customer's local exchange carrier (LEC) information that would enable that LEC to identify the customer's carrier. Although in its comments, Ameritech urged the Commission to require facilities-based interexchange carriers (IXCs) to transmit such information in all cases, some carriers have raised legitimate concerns that a change sometimes may be effected between two switchless resellers and without the knowledge of the facilities-based IXC. In that situation, it should be the responsibility of the switchless reseller to communicate the necessary information to the LEC.

II. ARGUMENT

A. The Commission Should Reject the Joint Proposal for a Third Party PC Administrator

In its comments, Ameritech expressed skepticism about whether a third party PC administrator was either necessary or cost-justified. It is now evident that Ameritech's skepticism was well founded. The third party PC administration proposal offered as a basis for discussion by AT&T and MCI WorldCom is an overly expensive solution in search of a problem.

Although AT&T, in particular, attempts to show that existing processes for handling PC functions are no longer tenable, its efforts are feeble. To be sure, it rehashes the same handful of incidents it tirelessly repeats and shamelessly misrepresents. And of course, it embellishes these incidents with some truly

over-the-top rhetoric. But all the rhetoric in the world cannot conceal what is the fundamental reality here: LECs have processed tens of millions of PC transactions since passage of the 1996 Act, and they have done so seamlessly, quickly, and in a nondiscriminatory fashion.¹ Far from being broken, the existing procedures work extraordinarily well.

That is not to say that these procedures are perfect or that AT&T and MCI fail to present any valid concerns. The imperfections in the existing system, however, do not require a whole new infrastructure at a cost of tens of millions of dollars. These matters can be addressed through far more cost-effective and prudent means.

1. A New PC Infrastructure is Unnecessary

AT&T and MCI claim that there are “strong reasons” to establish a third party administrator for PC-related functions.² They cite four such reasons in particular: (1) the need for neutrality in PC administration; (2) the need for more open and visible processes; (3) the efficiencies of a more centralized architecture; and (4) the cost of ILEC administered PC change processes. As shown below, some of these considerations may warrant changes in existing processes; they do

¹ By AT&T’s own estimate, LECs process over 50 million residential carrier selection changes each year. AT&T Comments at 10. As discussed in note 24 *infra*, that number is probably low.

² MCI WorldCom Comments at 3; AT&T Comments at 4.

not, however, warrant the expensive new infrastructure laid out in the joint proposal.

(a) Existing PC Processes are Nondiscriminatory

The central premise of AT&T and MCI WorldCom is that existing PC processes cannot be reconciled with growing competition in the intraLATA toll and local markets and the prospect of Bell operating company (BOC) entry into the long-distance market. According to MCI WorldCom, “[i]f the historical artifact of ILEC-run PIC processes is allowed to continue indefinitely, the industry could soon find itself in a world where one set of vertically integrated carriers ... controls the information and means by which another set of vertically integrated carriers ... can offer services.”³ AT&T voices similar sentiments.⁴

This argument suggests that it is highly unusual for one entity to compete on a retail level with other entities on whose behalf it provides wholesale inputs. That is not the case as a general matter, and it is certainly not the case in telecommunications markets. LECs routinely provide a wide array of services to their competitors and the customers of their competitors. Most obviously, they provide access and local exchange services. They also provide interconnection and collocation; access to network elements; access to telephone numbers, operator services, directory assistance, and directory listings, with no

³ MCI WorldCom Comments at 4.

⁴ AT&T Comments at 3

unreasonable dialing delays; and access to rights of way.⁵ All of these offerings are made available on nondiscriminatory terms and conditions, as the 1996 Act requires. Indeed the suggestion by AT&T and MCI WorldCom that it is untenable for a LEC to provide services (like PC processing) to their competitors is a suggestion that is at odds with the very framework of the 1996 Act.

Although the Act requires the Commission to designate neutral entities for number administration, by and large, it contemplates that LECs will provide a broad range of services on behalf of themselves and their competitors. The Act did not contemplate that LECs would divest themselves of their wholesale operations; rather, it imposes nondiscrimination requirements, which reflect Congress' belief that that these requirements can and do work.⁶

Certainly, there is nothing unique about PC processes that would render nondiscrimination requirements ineffectual. To the contrary, LECs have invested significant sums of money to develop fully automated PC processing systems which process PC change orders on a first-in, first-out basis and in a

⁵ See generally 47 U.S.C. § 251.

⁶ Of course, it is not just LECs that provide inputs to their competitors. Under longstanding Commission rules – rules which predated the divestiture - DXCs have been required to permit competitors to resell their tariffed offerings on nondiscriminatory terms and conditions. Likewise, AT&T has for years maintained control of the dominant 800 directory assistance (DA) service (800-555-1212). AT&T has been required to provide 800 DA service on nondiscriminatory terms to its own 800 service subscribers, as well as the subscribers of its competitors. Significantly, the Commission sought comments more than ten years ago on whether AT&T should be required to relinquish its 800 DA service to a neutral third party. The Commission concluded that, theoretical concerns and speculation aside, there was no convincing evidence that AT&T actually did discriminate in its provision of this service and that, under the circumstances, the costs of migrating this functionality to a neutral third party might well outweigh the benefits. *Provision of Access for 800 Service*, 4 FCC Rcd 2824 (1989) at paras. 105-06.

manner that is blind to the identity of the carrier issuing the change. Indeed, recognizing this, the Commission has stated “the ability of LECs to act anticompetitively while executing carrier changes is limited.”⁷

AT&T, however, claims that “the Commission failed to appreciate the full potential for competitive harm.”⁸ It states that “ILECs have more than ample ability to act on their incentives to favor themselves and their affiliates, and they in fact routinely do so.”⁹ It then cites a handful of examples by which it purports to demonstrate this. These examples are, grossly misrepresented and, in the scheme of things, trivial. They do not come close to making a case for the multi-million dollar infrastructure they purport to justify.

AT&T begins with the claim that in July and August 1998, it “conducted a trial in which it used third party verifiers to determine whether its customers wanted freeze protection.”¹⁰ It states that it then sent 303,452 customer requests for freeze protection to several BOCs, which these companies refused to implement. What AT&T fails to reveal is that it transmitted these orders in a format that did not conform to national CARE standards. Instead, they were

⁷ Notice at para. 184.

⁸ AT&T Comments at 5.

⁹ *Id.*

¹⁰ *Id.*

sent as a unique CARE file with non-standard transaction codes – codes Ameritech could not process without incurring substantial programming costs.¹¹

AT&T next recycles its wildly exaggerated claims about an Ameritech billing insert from December 1995. By way of background, this billing insert, which informed customers of the availability of PC protection, came at a time when slamming complaints in the Ameritech region had begun to skyrocket. During 1995, Ameritech received 23,000 unsolicited complaints of slamming. By the beginning of 1996, Ameritech was receiving on average 7000 complaints a month.

In light of this surge in slamming complaints, Ameritech felt it necessary to inform customers of the availability of slamming protection. To this end, it issued the bill insert of which AT&T makes so much.¹² The insert described slamming as “switching consumers’ long-distance or other telecommunications

¹¹ Moreover, at the time AT&T sent what it characterized to Ameritech as the “first wave” of these non-standard files, the industry was awaiting what was expected to be imminent guidance from the Commission with respect to procedures for marketing, implementing, and lifting PC protection, and it was by no means clear that AT&T’s request would be consistent with those rules.

¹² It has been suggested in the past that Ameritech implemented slamming protection on the eve of intraLATA toll dialing parity. That is false; Ameritech began offering slamming protection in 1986. Because slamming was not at that time the pervasive problem it has now become, Ameritech did not then actively market slamming protection, and the option was chosen primarily by customers who had been slammed. As the incidence of slamming increased, however, so too did customer demand for slamming protection. To illustrate, in July 1993, only about 35,000 Ameritech Illinois customers had slamming protection, even though that option had then been available for seven years. Only sixteen months later, in November 1995 – without any promotion of slamming protection by Ameritech whatsoever – that number had risen to nearly 200,000, an increase of more than 450%. It is in this context that Ameritech decided to inform

service without knowledge or consent” (emphasis added) and then informed customers that if they returned the enclosed form, “Ameritech will not permit any changes to your account unless you notify us by phone or in writing ...” (emphasis added). The insert also provided a telephone number that customers could use if they had any questions about slamming. Customers who responded received slamming protection for interLATA and intraLATA toll services.¹³

Because the insert did not explicitly refer to intraLATA toll service, the Michigan and Illinois Commissions found the insert could be misleading. Both decisions were narrow, split decisions that generated vigorous dissents.¹⁴ For example, Chairman Miller, of the Illinois Commission described the plurality’s decision as “irrational,” “ill considered,” “murky” and “constitutionally wanting.” He further stated that “[i]n asserting that Ameritech’s bill insert misled customers, the Majority demonstrates the hubris typical of the overzealous regulator” – hubris that AT&T takes out of context and regurgitates to this Commission at every opportunity.

customers generally of the availability of slamming protection through a December 1995 bill insert.

¹³ Ameritech did not – and still does not – have the ability to implement PC protection for interLATA services, but not intraLATA toll service, or vice versa, nor has any customer ever asked Ameritech to do so. Because the Commission has now required that customers be given this option, Ameritech has temporarily suspended processing of new consumer PC protection requests while it develops the capability to adhere to this requirement.

¹⁴ The Illinois decision was issued by a two-member plurality (out of five), with the deciding vote cast by a commissioner who concurred in the result, but neither joined in the decision nor issued a decision of his own. The Michigan decision was decided by a 2-1 vote.

Of course, it is not Ameritech's purpose in describing these facts to re-litigate these claims. Ameritech has not used this insert for years. Rather its purpose is to demonstrate the enormous gap between AT&T's rhetoric and reality.

That gap takes on Grand Canyon proportions when AT&T purports to describe what happened next. According to AT&T, Ameritech "blatantly violated the 1996 order by refusing to process carrier selection changes validated through the authorized methods" and then shut down its slamming protection program in Michigan to avoid doing so.¹⁵ What really happened is as follows:

At the urging of MCI WorldCom, the Michigan Public Service Commission required Ameritech to accept all carrier change requests that had been third party verified, regardless of whether the customer had PC protection or not. Because carriers do not transmit third party verification information with carrier change requests, Ameritech is unable to determine whether a particular PC change request has been subject to third party verification. Thus, in order to comply with the Michigan order, Ameritech was compelled to process *all* carrier change requests. Obviously, that was incompatible with PC protection, and Ameritech was therefore forced to cease offering it.

Even if Ameritech had been able to determine which PC changes had been subject to third party verification, Ameritech believed and continues to believe

¹⁵ AT&T Comments at 7.

that the Michigan Commission's decision would have rendered PC protection illusory – a view this Commission shares.¹⁶ It also bears noting that the Michigan Commission has since revised its rules so that a TPV record is no longer sufficient to lift slamming protection."¹⁷ Of course, none of this is discussed in AT&T's comments. Instead, AT&T is content simply to pull a few quotes out of context in order to deceive the Commission into believing that Ameritech's actions were anticompetitive.

AT&T's distortions, though, do not stop there. It next charges that "ILECs refuse to allow other carriers to change the freeze protection status of customers who wish to switch their services to the other carriers, and instead require the customers to call the ILECs to request such changes."¹⁸ This charge actually is true, but that is because, as the Commission found, allowing carriers to lift PC protection would render such protection illusory, and it declined to authorize such a procedure.

What are *not* true are the charges that follow. AT&T claims, first, that "ILECs only permit three-way calling during business hours, when most

¹⁶ See *Second Report and Order*, CC Docket No. 94-139, FCC 98-334, released Dec. 23, 1998 at para. 131: "Were we to allow third-party verification of a carrier change to override a preferred carrier freeze, subscribers would gain no additional protection from the implementation of a preferred carrier freeze."

¹⁷ In the Matter, on the Commission's own motion, to consider revisions to the procedures designed to prohibit switching an end user of a telecommunications provider to another provider without the authorization of the end user, Case No. U-11900, MPSC, 4/23/99 at 17.

¹⁸ AT&T Comments at 8.

telemarketing does not take place.”¹⁹ Contrary to AT&T’s claim, Ameritech permits three-way calls between 6:00 AM and 10 PM Monday through Friday and between 7:00 AM and 7:00 PM Saturdays. It also permits customers to use a 24-hour voice recording unit (VRU) to lift PC protection.

It claims, second, that Ameritech “as a matter of policy” permits its sales representatives to market regional toll services during three-way calls to process carrier changes[.]” As Ameritech explained in its comments, this allegation is false. Ameritech has always *prohibited* its sales representative from marketing intraLATA toll services in three-way calls. Its customer representative handbook states “Ameritech is prohibited by law from attempting to “save” a local toll account on carrier/customer 3 way calls.” It further provides that, if customers state it is their wish to change their intraLATA toll provider, the sales representative should “process the order without question.” Ameritech has also sent follow-up memos to sales representatives that include the following reminder: “If PPC exists on the account do not initiate a Save attempt.”²⁰

¹⁹ *Id.* at 9.

²⁰ Not only is AT&T’s charge that Ameritech authorizes its sales representatives to market regional toll services on three-way calls false, so too is its suggestion that Ameritech’s sales representatives do engage in such marketing. While the Michigan Commission found that a small number of Ameritech sales representatives had acted improperly on three-way calls, most commonly by asking the customer at the conclusion of the call whether they might be interested in one or more local service features, only one sales representative, on one call among thousands, was found to have attempted to market intraLATA toll service to the customer, and it did so in direct violation of Ameritech policy.

In short, far from telling a story of widespread abuse, AT&T takes a few isolated instances and tries to blow them up into something more than they are. And although AT&T's charges are awash in the rhetoric of outrage, what is truly outrageous is how recklessly AT&T twists the facts. The *real* story here is that, although LECs implement tens of millions of PC changes each year and millions of request to implement or lift PC protection, problems have been few, far-between, and, in the scheme of things, quite minor.

(b) LEC PC Change Charges are Cost-Based and Would Not be Avoided in Any Event.

No more convincing are claims by AT&T and MCI WorldCom that PC-change charges are priced above cost.²¹ In fact, these claims are not only wrong, but also irrelevant, since PC change charges would continue to apply if the joint proposal were implemented.

MCI WorldCom has filed a Formal Complaint against several ILECs in which it raises this very allegation. Ameritech has briefed this issue in that proceeding and will not repeat its arguments here. Suffice it to say that, in response to that Complaint, Ameritech submitted a cost study which demonstrates that its PC change charges have actually been priced *under* cost. Ameritech subsequently filed a tariff revision in which it raised to \$5 the charge for all PC changes, including changes to accounts with multiple lines. That tariff

²¹ AT&T Comments at 14; MCI WorldCom Comments at 6-7.

filing, which included an updated cost study, was allowed to take effect without suspension or investigation.

Ameritech believes that it has demonstrated that its PC-change charge is cost-based. If that is not the case, the Commission has the power to order rate reductions. That would be the appropriate remedy, not a superfluous infrastructure on top of the existing one.

In any event, the reasonableness of LEC PC-change charges is a total red herring. The PC administrator proposed by AT&T *et al.* would not replace LECs in the implementation of PC changes. It would not even reduce the role of LECs in this process. Thus, PC change charges would continue to apply.

Indeed, one of the ironies of the joint proposal is that while complaining of excessive costs, AT&T and MCI WorldCom have proposed an entirely redundant process that does not do away with the existing processes, but simply adds costs to them. To be sure, they have proposed a cost-recovery mechanism that is designed to shift the costs of this new infrastructure from IXCs to LECs, and they also attempt to use this proposal as a back-door way to rewrite the existing equal access requirements for new customer orders. Nevertheless, it is hard to fathom their claims that an entirely redundant infrastructure could save costs.

(c) Greater Openness and Visibility, as well as Routing Efficiencies, Can Be Achieved Without a Huge New Infrastructure

While AT&T and MCI WorldCom thus greatly overstate the problems with existing PC processes, they do raise certain legitimate issues. First, both complain about a lack of access to certain information. In particular, they claim that they have no ability to determine in advance whether a customer has placed a freeze on an account and that, consequently, a large percentage of their PC change orders are rejected. AT&T argues further that only ILECs can determine the identity of carriers that have engaged in slamming. Second, they note that, as an increasing number of facilities-based CLECs enter the marketplace, IXCs will have to establish connections with an increasing number of carriers. As discussed below, while all of these concerns are legitimate, they do not, individually or collectively, warrant an extravagant and expensive new PC infrastructure. They can all be addressed through far simpler and cheaper means.

As an initial matter, Ameritech agrees that IXCs ought to be able to determine before submitting a PC change whether the customer has PC protection on her account. Ameritech already makes available PC protection information, and it would be willing to implement alternative ways to make this

information available at the Commission's direction, and subject to appropriate restrictions on misuse of this information for marketing purposes.²² For example, Ameritech has begun exploring whether PC protection information could be made available on a secured Internet site. Alternatively, or in addition, LECs could be required to provide this information in hard copy or tape format. IXC could then either input that information into their own computer systems or establish shared databases to reduce costs. Quite obviously, a wholesale reformation of PC change and PC protection processes is not needed to address this concern.

Nor are entirely new systems and processes needed for an IXC to obtain the identity of carriers that have slammed its customers. As an initial matter, AT&T's claim that LECs have uniformly refused to provide this information is disingenuous because, as far as Ameritech has been able to determine, AT&T has never asked it for such information. More to the point, what AT&T does not disclose is that, at the request of, *inter alia*, an ILEC – specifically SBC - the Ordering and Billing Forum is now considering a change in the CARE field that would permit LECs to pass this information electronically each time a slam takes place. Finally, AT&T has also proposed a third party administrator (TPA) for slamming liability issues. If that proposal were implemented, the TPA would be

²² Ameritech stated its position on this matter two years ago. See *Policies and Rules Pertaining to Local Exchange Carrier "Freezes" on Consumer Choices of Primary Local Exchange or Interexchange Carriers*, CCB/CPD 97-19, Ameritech Comments, June 4, 1997, at 18-19. See also *Implementation of the Subscriber Carrier Selection Changes Provisions of the Telecommunications Act of*

able to inform each carrier of the identity of other carriers that have slammed its customers.

Finally, while it is true that the emergence of facilities-based CLECs requires carriers to interact with an increasing number of LECs, routing efficiencies can be achieved without a third party PC administrator, and without Commission intervention of any kind. If the increasing number of CLECs materially affect carriers' costs of transmitting and receiving PC information, they can achieve the same efficiencies offered by a third party administrator without the enormous cost. Stated simply, they can establish centralized routing architectures without placing an expensive PC administration infrastructure in the middle of that architecture.²³

2. A New PC Infrastructure Would be Too Costly

While the extravagant new PC infrastructure that has been outlined would thus offer virtually no benefits that could not be achieved without such an infrastructure, it would also be extremely costly to implement and operate.

Although AT&T and MCI WorldCom contend that their proposed neutral third

1996, Policies and Rules Concerning Unauthorized Changes of Consumers' Long Distance Carriers, Ameritech Reply, Sept. 29, 1997, at 11-12.

²³ MCI WorldCom also claims that CLECs sometimes do not implement back-office systems that are as sophisticated as ILEC systems, and that, consequently, "speed and reliability are often sacrificed" when CLECs enter the market. It suggests that a new PC administrator could address this problem by substituting for DXCs in its interaction with CLECs. MCI WorldCom Comments at 6. Ameritech does not understand how a neutral PC administrator will address problems created by primitive back-office systems, nor does it believe that the introduction of redundant systems and processes into the PC change process will increase speed or reliability.

party (NTP) would cost less, and certainly not more, than existing PC administration processes, that is certainly not true, and it is a false comparison in any event. The Commission is not faced with a choice between two extremes: the status quo with no changes and an entirely new PC infrastructure. The Commission can also adopt a middle ground in which it addresses some of the inefficiencies of the existing system in a more targeted, cost-effective way than does an NTP. Indeed, as should be clear by now, that is exactly what Ameritech recommends.

Neither AT&T nor MCI WorldCom provides even high level cost information, so it is impossible to guess what their proposal would cost. Clearly, though, the costs would be enormous. For starters, the proposal would require an enormous central database capable of housing information about every telephone line in the country. To ensure network reliability, a redundant database with redundant links would be required. While AT&T suggests, ever so briefly, that this database could "parallel the overall design architecture of the Number Portability Administration Center and Service Management System," it offers no further information on the similarities and differences between these databases or on what such a database might cost. It would seem, however, that a PC administration database would have to handle a far greater number of transactions than the number portability database, since consumers undoubtedly can be expected to change one of their carriers far more often than they will need to port their telephone number. Indeed, the PC databases would have to be

capable of efficiently and seamlessly handling what would likely be in excess of one hundred million transactions each year.²⁴

These central databases would have to be populated with data sent by hundreds of LECs from all over the country, many of which AT&T and MCI WorldCom lament have crude back office systems. The cost of that single download in itself would be significant. As envisioned by AT&T and MCI WorldCom, the national PC database would contain customer names, telephone numbers, PC choice, and PC protection status. Ameritech does not have a database that contains just this information. For example, CARE records include such information as toll restrictions that have been placed on the customer's account for non-payment of bills; billing telephone number (which may differ from the working telephone number); billing address; previous PC; customer code; social security number; and directory assistance status (*i.e.*, published/non-published). Similarly, billing records include information the customer's credit rating, vertical features the customer has ordered, as well as significant other information that could not be sent to the third party administrator. Thus, Ameritech (and presumably every other LEC) would have to look at each record individually and determine, one-by-one, what information should be sent and

²⁴ As noted, AT&T itself estimates that over 50 million *residential* carrier selection changes already are processed each year and that the advent of intraLATA toll dialing parity will further increase this number. This number is undoubtedly too low because Ameritech itself processes over ten million PC changes annually. Moreover, in addition to carrier changes, a transaction would have to be generated to establish or remove slamming protection.

what should not be. There is no clue in the Lockheed analysis that such costs were even considered.

Simply sending the records, however, is only the beginning. Records would have to be continually updated. Most obviously, carriers would have to transmit information regarding new lines, new PCs, and changes in PC protection status. In addition, carriers would be required to update the central database whenever a customer disconnected a line, changed its telephone number, or changed the account name associated with a number. If there were an area code split, all of the new telephone numbers would have to be transmitted, and when a new NXX were deployed, that information would have to be communicated.

Of course, transmitting this information is only half the job. It must also be received and accurately processed. In this regard, the national PC database would continually receive massive amounts of information from LECs all over the country, as well as from facilities-based IXCs and regional resellers. Inevitably, there would be discrepancies between carrier databases and the national database. There would be discrepancies in customer names, telephone numbers, line status, and PC assignments, and PC protection status. It is not a question of whether; it is a question of how much. These discrepancies exist today with respect to LEC and IXC databases, and are referred to as "out of sync" situations. Creating an additional database housing massive amounts of

information and through which all PC transactions must flow would unquestionably exacerbate this problem.

These "out of sync" situations not only impose costs, as carriers attempt to identify the source of any discrepancies; they also affect customers. If a LEC receives a PC change request, and the information on that request does not match the information in the LEC's account, that request must be rejected.

Indeed, delays in the processing of PC changes are likely to occur wholly apart from the likely increase in "out of sync" errors. While LECs can now process most PC change requests in one day, one-day processing will not be feasible when requests must go, first from the carrier to the central data base, and only then to the LEC for processing. The costs of these additional delays and of inevitable increased errors also do not appear to be addressed by Lockheed.

In addition to processing PC changes and PC protection requests, the central administrator could, under the IXC plan, deploy audio response units to inform customers of the intraLATA and interLATA carriers who provide service in their calling areas. The costs of such an undertaking could be considerable because a different recording would have to be created for every single wire center in the country, and those recordings would have to be updated on a real-time basis as carriers added or withdrew service from a particular area.

Obviously, these costs are just the tip of the iceberg. Neither AT&T nor MCI WorldCom attempts to identify, much less quantify, all of the costs that

would be required to develop, implement, operate, and maintain this massive new infrastructure, and neither can Ameritech at this point. Ameritech has seen enough, however, to conclude that the costs would be excessive and that the nine-page Lockheed analysis does not even begin to consider all of these costs.

AT&T and MCI WorldCom do not actually deny that this proposal would be extremely costly. To the contrary, they implicitly admit as much by suggesting a gradual phase-in of this proposal to avoid imposing costs on smaller independent LECs.²⁵ What they claim, instead, is that the costs would be offset by corresponding savings. Of course, that claim is hardly credible, given that not a single cost figure is given in this analysis. More to the point, however, the savings that are qualitatively identified are either illusory or have nothing to do with the central PC administrator itself.

A case in point is the ostensible savings from the reduction in slamming. According to AT&T, carriers today are required "to spend an enormous amount of time and money detecting, addressing, and attempting to resolve slamming complaints and disputes." AT&T does not say how much money this is,²⁶ but it

²⁵ AT&T Comments at 25.

²⁶ AT&T Comments at 28. While AT&T may or may not spend a considerable amount of time and money on slamming complaints it receives from consumers, AT&T does not spend a considerable amount of time and money on complaints received by Ameritech. Rather, AT&T subscribes to Ameritech's PC switchback service under which customers are automatically switched back to their preferred carrier and AT&T is charged only \$10.

posits that a central administrator would reduce slamming, thereby sparing carriers these costs.²⁷

Ameritech assumes that AT&T is confusing the proposed liability TPA with the proposed PC administrator, because nothing in the PC administrator proposal could reasonably lead to a reduction in slamming. To the contrary, this proposal is likely to increase the incidence of slamming because of the higher risk of administrative error resulting from the additional steps and additional databases that would be grafted into the PC change process. Thus, a third party PC administrator would produce no slamming-related savings.

AT&T also notes that a third party PC administrator would enable carriers to market more effectively to consumers with PC protection in place and to achieve savings from the centralized architecture of the new system.²⁸ As noted, though, these savings do not hinge on the establishment of a new PC administrator and a whole new PC infrastructure. They can be achieved within the context of the existing framework, at far less cost.

AT&T further suggests that its proposal would “yield a number of savings for ILECs in particular.”²⁹ It claims that ILECs would no longer have to maintain

²⁷ *Id.* at 29.

²⁸ *Id.*

²⁹ *Id.* at 29-30.

and update full PIC/CARE databases, a savings it claims would be significant. It also suggests that LECs would be able to disconnect their existing links to IXCs.

Neither of these claims is correct. First, a third party PC administrator would not obviate the need for LECs to maintain the same PIC/CARE databases they maintain today. Under the Commission's *Truth in Billing* requirements, LECs would be required to identify the customer's interexchange carrier on the customer's bill. Moreover, LECs must maintain this information for the wholly independent reason that they must ensure that the correct PC information is loaded into their switches. LECs cannot simply make changes in their switches and discard all records of what changes were made and when. They must maintain those records to ensure that any routing problems can be promptly addressed. In addition, LECs need this information to respond to customer inquiries – inquiries that are likely to grow in number when LECs include carrier identification information on customers' bills.

Second, contrary to Lockheed's assumption, LECs would not likely be able to terminate their CARE links to IXCs. It is not just PC information that is transmitted over CARE links. LECs also provide IXCs with other information. For example, if the IXC bills for its own customer, the LEC must inform the IXC if the customer changes its billing address. That information would not be included in the central database, and thus would have to be provided by the LEC directly to the IXC. Nor would other information that LECs routinely provide,

such as billing telephone number (if that number is different from the working telephone number). LECs also provide information if the customer's account status changes – for example, if due to nonpayment, the customer has been placed on “toll restrict.”

In fact, Ameritech has not been able to identify a single savings of any value at all to LECs under this proposal. They would still have to receive and implement PC changes using the very same systems they do today; they would still have to maintain the same records they do today; and they would still have to maintain the same links to interexchange carriers. At the same time, they would be forced to add new redundant links to enable the exchange of information with the third party administrator, and implement new systems and processes to coordinate the sharing of information and reconciliation of records with that administrator. Far from saving costs, this proposal would impose significant new ones.

Of course, LECs would be hit all the harder because of the self-serving cost recovery mechanism proposed by AT&T and MCI WorldCom, which would disproportionately burden LECs and benefit IXCs. These carriers propose, in particular, that costs be allocated among carriers based on their telecommunications revenues (excluding wireless revenues) less access charges. They do not explain why access costs should be excluded, as opposed to other costs, nor do they explain why access revenues should not also be excluded if

access costs are to be excluded. They simply throw all credibility to the wind by advancing a shamelessly self-serving funding mechanism.

3. AT&T and MCI WorldCom Improperly Misuse This Proceeding as a Way of Revising Existing Equal Access Requirements Through the Back-Door

It is not just in the funding mechanism that AT&T and MCI WorldCom shamelessly pander to their own interests. They also seek to use their third party PC administrator to rewrite the Commission's equal access requirements. Specifically, they propose brand new marketing restrictions that would apply to all ILECs, but not to CLECs. Under these restrictions, an ILEC would be prohibited from discussing, not only its interLATA services, but its intraLATA toll services as well, until after the customer had made all arrangements for local service.³⁰

The arrogance of AT&T and MCI WorldCom in offering this proposal is truly astounding. This proposal not only has no place in this proceeding, it has no place in the statutory framework adopted by Congress. As the Commission has recognized, section 272(g) confers upon the Bell operating companies (BOCs) a statutory right to market jointly local and interLATA services.³¹ Obviously, a

³⁰ AT&T Comments at 21.

³¹ *Application of BellSouth Corporation, et al. Pursuant to Section 271 of the Communications Act of 1934, as amended, To Provide In-Region, InterLATA Services In South Carolina*, CC Docket No. 97-208, FCC 97-418, released Dec. 24, 1997, at para 239. In the context of section 271(e)(1) joint marketing limitations on interexchange carriers, the Commission has stated: "We agree with the majority of commenters that bundling BOC resold local services and interLATA services ... into a package that can be sold in a single transaction constitutes the type of joint marketing that Congress intended to restrict by enacting section 271(e). *Implementation of the Non-Accounting*

BOC cannot jointly market local and long distance services if it must make all local arrangements before it is permitted even to mention its own long distance service. Thus, this proposal is directly contrary to the Act.

The chutzpah of AT&T and MCI WorldCom, however, is unbounded. They do not simply seek to revoke the BOCs' statutory right to jointly market local and interLATA services, they seek to impose a wholly new obligation – one that has never existed before – on the joint marketing of local and intraLATA toll services. Moreover, they propose these arrangements, not just for the BOCs, but for all ILECs.

Obviously, this proposal is a non-starter. Given that the BOCs are expressly permitted to jointly market local and interLATA services, no basis could possibly exist for prohibiting the joint marketing of local and intraLATA services.

Nevertheless, the Commission should take this as a warning. In their outlandish funding proposal and their brazen attempt to revoke through the back-door ILEC joint marketing rights, AT&T and MCI WorldCom have demonstrated that their real agenda here is not a fair and impartial mechanism, but a mechanism that uniquely serves their own competitive interests. That is all

Safeguards of Sections 271 and 272 of the Communications Act, as amended, 11 FCC Rcd. 21905 (1996) at para. 277.

the more reason to be skeptical of the merits of this extravagant and unnecessary undertaking.

B. The Commission Should Require All Carriers that Execute Carrier Changes, Including Switchless Resellers, to Notify LECs of Such Changes.

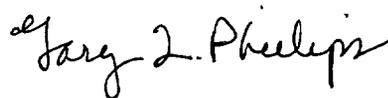
In its comments, Ameritech urged the Commission to require facilities-based interexchange carriers (IXCs) to transmit to a customer's LEC information that would enable that LEC to identify the customer's carrier in all cases. Rather than mandating that resellers be assigned a carrier identification code (CIC) or pseudo-CIC, however, Ameritech urged the Commission to require that such information be transmitted through a discrete field within the CARE record that is not part of the CIC field.

In offering this proposal, Ameritech assumed that facilities-based IXCs would generally implement carrier changes submitted by their own resellers. The comments indicate that this might not always be the case. In particular, some commenters note that a switchless reseller might resell the services of another switchless reseller, raising the specter of a carrier change between two switchless resellers of the same carrier. In that situation, the facilities-based IXC might not be aware of the carrier change.

Given this possibility, Ameritech hereby revises its original proposal. Instead of requiring facilities-based IXCs to transmit the necessary information, the Commission should require any carrier that executes a carrier change to

transmit this information, whether that carrier is a facilities-based IXC or a switchless reseller thereof. The Commission should require, further, that this information be transmitted in a format consistent with national standards. While switchless resellers are not likely to have links that would enable them to transmit this information electronically, they can nevertheless transmit it in a standard CARE format by tape. Subject to this modification, Ameritech's proposal will be a far more feasible and cost-effective way of addressing the problems relating to switchless resellers that are discussed in the *Notice* and the best way for LECs to fulfill the mandate in the *Truth in Billing* proceeding that they identify each customer's IXC on their bill.

Respectfully Submitted,



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May 3, 1999

CERTIFICATE OF SERVICE

I, Anisa A. Latif, do hereby certify that a copy of **Ameritech Reply** has been served on the parties attached via first class mail - postage prepaid on this 3rd day of May 1999.

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