

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

RECEIVED

JUN 03 1999

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

)
In the Matter of)
)
)
Provision of Access)
for 800 Service)
_____)

CC Docket No. 86-10

DOCKET FILE COPY ORIGINAL

AT&T's REPLY TO SBC OPPOSITION TO APPLICATION FOR REVIEW

Pursuant to Section 1.115(d) of the Commission's Rules, 47 C.F.R. § 1.115(d), AT&T Corp. ("AT&T") hereby replies to SBC Communications, Inc.'s ("SBC") Opposition to its Application for Review ("Application") of the Common Carrier Bureau's Order on Reconsideration, DA 99-413, released on March 31, 1999.¹ AT&T's Application showed that the Order on Reconsideration failed to provide a reasoned explanation for departing from well-established Commission policy in holding that requests submitted to the National Administration and Service Center ("NASC") administrator to change the Responsible Organization ("Resporg") for an inbound service cannot be verified by an independent third party, as permitted by the Commission's primary interexchange carrier ("PIC") change procedures. SBC's Opposition does not even attempt to refute AT&T's argument and should be summarily dismissed.

The Order on Reconsideration denied a petition filed by MCI Telecommunications Corp. requesting clarification or reconsideration of the NASC Change

¹ Concurrent with its Application for Review, AT&T filed a Petition for Stay Pending Review of the Order on Reconsideration. To AT&T's knowledge, no party, including SBC, opposed AT&T's stay petition.

No. of Copies rec'd 044
List ABCDE

Order that “authorized the NASC administrator to make RESPORG changes, based on proper written authorization by users.”² The Bureau acknowledged that the NASC Change Order did not define the meaning of the term “proper written authorization,” but nonetheless concluded that the Order did not permit the use of the Commission’s PIC change procedures to verify Resporg changes. AT&T’s Application explained that customers have the identical interest in changing inbound and outbound service providers, and for that reason the Commission has adopted standard procedures that carriers must use in verifying those decisions, which the Order on Reconsideration failed to follow.³

Thus, in its PIC Change Order, the Commission adopted a comprehensive set of procedures, including third party verification, governing the submission by interexchange carriers of PIC change requests to local exchange carriers.⁴ In its Slamming Order, the Commission decided to “apply the same verification requirements to in-bound and out-bound calls,” because “[t]his will enable carriers to adopt uniform verification requirements for all calls” initiated by customers to change service providers.⁵ Moreover, the industry has effectively adopted the Commission’s PIC change procedures for the purpose of verifying changes to a

² Provision of Access for 800 Service, CC Docket No. 86-10, 8 FCC Rcd 1844, 1845 (Com. Car. Bur. 1993)(“NASC Change Order”).

³ AT&T Application at 3-4.

⁴ Policies and Rules Concerning Changing Long Distance Carriers, 7 FCC Rcd 1038, 1045-46 (1992)(“PIC Change Order”).

⁵ Implementation of the Subscriber Carrier Selection Changes Provisions of the Telecommunications Act of 1996, Second Report and Order and Notice of Proposed Rulemaking, CC Docket No. 94-129, FCC 98-334, rel. Dec. 23, 1998, at ¶ 67 (1998)(“Slamming Order”).

customer's inbound service made on a Resporg-to-Resporg basis.⁶ The Order on Reconsideration, however, ignored this uniform body of Commission precedent and conforming industry practices in adopting a new verification rule. Without any reasoned explanation, the Bureau provided that the "proper written authorization" requirement of the NASC Change Order cannot be satisfied by the Commission's PIC change procedures, including third party verification, and can only be satisfied by the use of a letter of authorization ("LOA"). The Bureau thus failed to explain adequately, as required, its decision to create an exception to the Commission's policy of "apply[ing] the same verification requirements to in-bound and out-bound calls."⁷

As AT&T's Application demonstrated, the Commission's PIC change procedures are uniformly used to confirm a customer's carrier selection, and for Resporg changes implemented on a Resporg-to-Resporg basis. Because the PIC change procedures satisfy the Commission's concerns in all the foregoing contexts, they should equally satisfy the same concerns in the case of Resporg changes submitted to the NASC.⁸ Since the NASC Change Order was released more than six years ago, Resporgs have used PIC change procedures, including third party verification, in submitting service changes to the NASC, believing this practice to be consistent both with Commission policy and the requirements of that Order. This practice has worked smoothly and without controversy, to the benefit of customers, and there is

⁶ AT&T Application at 5 and Exhibit A, Declaration of Jonnie Bond attached thereto.

⁷ Slamming Order at ¶ 67. See Greater Boston Television Corp. v. F.C.C., 444 F.2d 841, 852 (D.C. Cir. 1970)("an agency changing its course must supply a reasoned analysis indicating that prior policies and standards are being deliberately changed, not casually ignored").

⁸ AT&T Application at 3-6.

no justification for disrupting it. By contrast, the Bureau's LOA requirement will greatly inconvenience the thousands of customers each month that wish to change inbound service providers, significant numbers of these customers will neglect or decline to sign LOAs and be unable to change service providers, and those customers that eventually sign LOAs will experience substantial delays in changing their services.⁹

SBC's Opposition fails to address AT&T's arguments. SBC rather opposes AT&T's Application "insofar as it seeks to have all of the provisions of the . . . Slamming Order applied to 800 service."¹⁰ SBC then proceeds to use AT&T's Application as a vehicle for repeating its pending challenge to the Slamming Order, where it argued that the Commission should endorse the industry's practice of verifying Resporg changes for 800 service by a signed LOA, as an exception to the verification procedures adopted in the Slamming Order.¹¹ The Commission should give no credence to this gambit. AT&T's Application only focuses on the issue of whether the Order on Reconsideration adequately justified its conclusion that the Commission's PIC change procedures, including third party verification, cannot be used to confirm Resporg changes submitted to the NASC. Considered on its own terms, AT&T's Application is unchallenged by SBC.

Ironically, the logic of SBC's position actually supports AT&T's Application, to the extent SBC contends the Commission should allow the industry to use the verification practices, which include third party verification, traditionally employed for Resporg changes.

⁹ Id. at 5-6.

¹⁰ SBC Opposition at 1.

¹¹ Id. at 1-2, citing "SBC's Petition for Reconsideration and for Clarification," CC Docket No. 94-129, dated March 18, 1999, at 13.

The Declaration of Jonnie Bond attached to AT&T's Application described those industry practices as follows:

Since 1993, the industry has acknowledged that Resporg change validation procedures are within the discretion of the individual Resporg and that Resporgs can use one or more validation procedures: written LOA, third party verification, or electronic verification. The industry selected these validation options because they reflect the procedures specified by the Federal Communications Commission ("FCC") concerning changing a customer's preferred carrier, and because Resporg changes are typically made at the same time that preferred carrier changes made.¹²

Thus, in prohibiting Resporgs from using PIC change procedures, including third party verification, conventionally used for Resporg changes submitted to the NASC, the Order on Reconsideration repudiates the very practices SBC contends the Commission should endorse. Given the similarity in the two parties' views, SBC's Opposition to AT&T's Application is therefore perplexing. In any event, SBC has completely failed to refute AT&T's showing that the Order on Reconsideration is unsupported.

¹² Declaration of Jonnie Bond, at ¶ 3.

CONCLUSION

For the reasons stated above, the Commission should deny SBC's Opposition and grant AT&T's Application for Review of the Order on Reconsideration.

Respectfully submitted,

AT&T CORP.

By: Peter H. Jacoby

Mark C. Rosenblum

Peter H. Jacoby

Lynn C. Haber

Its Attorneys

Room 3250J1

295 North Maple Avenue

Basking Ridge, NJ 07920

(908) 221-4243

June 3, 1999

CERTIFICATE OF SERVICE

I, Charlene A. Reed, do hereby certify that a true copy of the foregoing was served this date by United States mail, first class postage prepaid upon the following, except as otherwise noted, on the following:

Robert M. Lynch
Roger K. Toppins
Barbara R. Hunt
SBC Communications, Inc.
One Bell Plaza, Room 3026
Dallas, Texas 75202

Lawrence E. Strickling*
Chief, Common Carrier Bureau
Federal Communications Commission
445 12th Street, S.W., Room 5C450
Washington, D.C. 20554

ITS*
1231 20th Street, N.W.
Washington, D.C. 20036

* By Hand

A handwritten signature in cursive script that reads "Charlene A. Reed". The signature is written in black ink and is positioned above a horizontal line.

Charlene A. Reed

June 3, 1999