

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

In the Matter of)	
)	
Implementation of the Subscriber Carrier)	
Selection Changes Provisions of the)	
Telecommunications Act of 1996)	CC Docket No. 94-129
)	FCC 98-334
Policies and Rules Concerning)	
Unauthorized Changes of Consumers)	
Long Distance Carriers)	

COMMENTS

BellSouth Telecommunications, Inc. (“BellSouth”) provides these comments in support of the petition for reconsideration and for clarification filed by SBC Communications, Inc. (“SBC”) in the above-captioned proceeding. Specifically, BellSouth joins SBC in urging the Commission to amend Section 64.1180(e) of the Rules, 47 C.F.R. § 64.1180(e), to allow a carrier which has been exonerated from an allegation of slamming to re-bill its own service charges to the end user.

DISCUSSION

On December 23, 1998, the Commission released rules limiting the liability of customers victimized by an unauthorized carrier change and establishing new procedures for the investigation and disposition of slamming complaints.¹ Among these rules is Section 64.1180,

¹ In the Matter of Implementation of the Subscriber Carrier Selection Changes Provisions of the Telecommunications Act of 1996, CC Docket No. 94-129, FCC 98-334, *Second Report and Order and Further Notice of Proposed Rulemaking*, released December 23, 1998 (“*Second Report and Order*”).

which makes the authorized carrier² responsible for adjudicating disputes between that carrier's end user and an alleged slamming carrier. In the event of a decision which exonerates the alleged slammer, subsection (1) of section (e) prescribes the following:

(1) If the authorized carrier decides that the subscriber was not subjected to an unauthorized change, the authorized carrier shall place on the subscriber's bill a charge equal to the amount of charges for which the subscriber was previously credited pursuant to paragraph (b). Upon receiving this amount, the authorized carrier shall forward this amount to the carrier making the claim.³

As presently constituted, this section will prevent a carrier absolved of any wrongdoing from billing and collecting its own service charges. BellSouth agrees with SBC that practical, as well as equitable, considerations mandate a reversal of this policy.

Aside from the third-party billing it provides under detariffed, contractual arrangements, BellSouth has no system in place which will accommodate incidental billing of the services of another carrier.⁴ After first deciding whether this type of third-party billing service would even be one BellSouth would pursue, modifications would be necessary to enable BellSouth to receive and process necessary billing detail, transfer this information to the bill in appropriate format and otherwise perform the duties of the "authorized carrier" under section (e)(1). Billing for these disputed charges will predictably generate ill will toward any authorized carrier and its billing agent among customers with whom the carrier has an ongoing relationship. Finally, even if the carrier is permitted to obtain compensation for this service (an issue left unresolved by the rule),

² "[A]n authorized carrier is generally any telecommunications carrier that submits a change, on behalf of a subscriber, in the subscriber's selection of a provider of telecommunications service with the subscriber's authorization verified in accordance with the procedures specified in this Subpart." 47 C.F.R. § 64.1100(e)(3).

³ 47 C.F.R. § 64.1180(e)(1)

⁴ Like SBC, BellSouth does not offer billing and collection services to competitive local exchange carriers ("CLECs").

it is not at all clear what the demand for such billing would be or whether this demand would ever provide revenue commensurate with the implementation costs.

The position of an exonerated carrier is scarcely better. In becoming the focus of an unsubstantiated slamming complaint, that carrier forfeits the right to bill and collect its own lawfully imposed service charges. It is unclear under the rule how long a carrier must wait before pursuing collection activity in its own name, to include the election of a judicial remedy. As previously noted, all charges subject to the application of section (e)(1) have presumably been disputed by the end user; hence, a suit to obtain collection of the debt may often be the only viable option.

Section 64.1180(e)(1) operates punitively on both carriers—neither of whom in the situation posited would have committed any violation of the statute or the Commission’s rules. In addition, consumers are unlikely to understand a process whereby one carrier attempts to collect a debt ostensibly owed to another, competing carrier. This bizarre outcome—unintended by the Commission—serves no legitimate interest and could even undermine the many beneficial effects of the recent rulemaking.

CONCLUSION

For the foregoing reasons, the Commission should grant SBC's petition and amend Section 64.1180(e) to allow carriers exonerated from an allegation of slamming to pursue on their own behalf the collection of lawfully imposed service charges.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I do hereby certify that I have this 23rd day of June 1999 served the following parties to this action with a copy of the foregoing COMMENTS by hand delivery or by placing a true and correct copy of the same in the United States Mail, postage prepaid, addressed to the parties listed on the attached service list.

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