

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

In the Matter of

Truth-in-Billing
and
Billing Format

RECEIVED)
NOV - 5 1999)
FEDERAL COMMUNICATIONS COMMISSION)
OFFICE OF THE SECRETARY)

CC Docket No. 98-170

Petition for Temporary, Limited Waiver

Mehtel Communications, Inc. ("Mehtel") and its affiliates, Gallatin River Communications ("Gallatin River") and Gulf Telephone Company ("Gulf")(collectively the "Petitioners"),¹ by counsel, hereby seek temporary, limited waiver of the Truth-in-Billing ("TIB") requirements established by the Federal Communications Commission ("Commission" or "FCC") in its First Report and Order and Further Notice of Proposed Rulemaking in the above-captioned matter.² Specifically, the Petitioners seek temporary waiver of the requirements of Section 64.2401(a)(2) regarding separating charges by service provider (the "TIB Separate Provider Requirement")³ and Section 64.2401(d) regarding disclosure of inquiry contacts (the "TIB Inquiry Contact

¹ Attachment A contains the declaration of Michael Skrivan, Executive Vice President - Revenues for Mehtel and Gallatin River, and the declaration of Woodard S. Setzer, Vice President - Regulatory. The declarations bear facsimile signatures. The original signed declarations will be filed upon receipt by counsel.

² In the Matter of Truth-in-Billing and Billing Format, First Report and Order and Further Notice of Proposed Rulemaking, CC Docket No. 98-170, FCC 99-72, released May 11, 1999, 64 Fed. Reg. 34488 (June 25, 1999)("TIB Order"); Errata, CC Docket No. 98-170, DA 99-2092, released October 6, 1999.

³ In pertinent part, 47 C.F.R. § 64.2401(a)(2) states that "[w]here charges for two or more carriers appear on the same telephone bill, the charges must be separated by service provider. . . ."

No. of Copies rec'd
List ABCDE

04

Requirement")⁴ (collectively the "TIB Requirements"). The Petitioners seek this waiver until April 1, 2000.

Mebtel, which is a member of the United States Telecom Association ("USTA"), recognizes that a pending Petition filed by USTA seeks similar relief for USTA member companies,⁵ and would not otherwise cover Gallatin River or Gulf unless the relief sought was applied to all carriers as USTA has suggested.⁶ Moreover, the Petitioners recognize that a pending Joint Petition filed by the National Exchange Carrier Association, Inc., the National Telephone Cooperative Association, and the Organization for the Promotion and Advancement of Small Telecommunications Companies, Inc. (collectively the "Associations") also seeks similar relief for their member companies. Accordingly, in the event that action on the USTA Petition and/or the Associations' Petition does not grant the extent of the relief requested herein, the Petitioners request a waiver of the TIB Requirements until April 1, 2000.

⁴ 47 C.F.R. § 64.2401(d) states that:

Telephone bills must contain clear and conspicuous disclosure of any information that the customer may need to make inquiries about, or contest charges, on the bill. Common carriers must prominently display on each bill a toll-free number or numbers by which customers may inquire or dispute any charge contained on the bill. A carrier may list a toll-free number for a billing agent, clearinghouse, or other third party, provided that such party possesses sufficient information to answer questions concerning the customer's account and is fully authorized to resolve consumer complaints on the carrier's behalf. Each carrier must make its business address available upon request to consumers through its toll-free number.

⁵ See Public Notice, DA 99-1616, released August 13, 1999.

⁷ See Reply Comments of USTA, CC Docket 98-170, filed September 10, 1999 at 2.

Until the requested waiver expires, the Petitioners will continue to work diligently with their billing software vendor and, for Gulf, its in-house billing staff, in order to have the necessary software changes made and tested in order to comply with the TIB Requirements. Moreover, even after the waiver expires, each of the Petitioner's customer representatives will continue to provide assistance to customers with questions concerning charges from particular carriers and for particular services. The Petitioners respectfully submit that these actions will ensure that the underlying public interest objectives of the TIB Requirements will be advanced during the time that the requested waiver is in effect.

I. Background

Mehtel provides exchange and exchange access services to approximately 10,000 lines in North Carolina. Gallatin River provides exchange and exchange access services to approximately 84,000 lines in Illinois. Gulf provides exchange and exchange access services to approximately 50,000 lines in Alabama. Each of the Petitioners is a rural telephone company under the Communications Act of 1934, as amended.

Mehtel and Gallatin River each use EUR Data Center, Inc. ("EUR") as their billing vendor. Gulf utilizes in-house resources for the provision of billing software. In May, 1999, after the release by the FCC of its TIB Order, the Petitioners began addressing the various TIB requirements in order to ascertain what billing system changes would be required to ensure their compliance. Accordingly, the Petitioners included these activities as one part of their Year 2000 issue checklist associated with all of their computer-based systems. Although TIB compliance efforts were undertaken, the Petitioners will not be able to comply with the TIB Requirements by the November

12, 1999 effective date.⁷

A. Compliance Issues with Respect to the TIB Separate Provider Requirement and the TIB Inquiry Contact Requirement

The need for the temporary, limited waiver of the TIB Separate Provider Requirement and the TIB Inquiry Contact Requirement arise from the billing services that the Petitioners provide for charges for casual calling and alternate service providers (collectively referred to as "AOS providers"), *i.e.*, carriers other than the presubscribed "1+" carrier of the customer.

Specifically, the Petitioners receive data from the AOS provider's clearinghouse, which, in turn, are aggregated in one section of the Petitioners' end user bills. This bill section may identify one or, at times, several different AOS providers based on the customer's decision to make a casual call or to use an alternative service provider in a given billing cycle. The charges that the Petitioners receive are sorted by customer and by date and time of that customer's usage. The Petitioners' existing billing system software does not, however, sort these call records by AOS provider where the records involve a "sub-CIC"⁸ of that provider.⁹ In addition, the Petitioners' existing software

⁷ See 64 Fed. Reg. 55163 (Oct. 12, 1999); see also Public Notice, DA 99-2030 (Sept. 30, 1999) and Public Notice, DA 99-1789 (Sept. 2, 1999).

⁸ A "CIC" is the Carrier Identification Code assigned to a specific carrier. The use of "sub-CICs" allows other providers to share the CIC.

⁹ The Petitioners note that the instances where AOS service providers are not separated on the bill should be minimal. Based on the Petitioners' experience, many of the customers being billed for AOS service provider calls make calls using only one (1) such provider. Mebtel's review of a representative month's data indicates that the instances where charges for two (2) or more AOS service providers arise on a customer's bill occur in less than approximately five (5) percent or typically less than 500 of the approximately 10,000 end user bills that Mebtel renders in a given month. Gallatin River's review of a representative month's data indicates that the instances where charges for two (2) or more AOS service providers arise on a customer's bill occur in less than approximately five (5) percent or typically less than 4,200 of the approximately

is not capable of placing the name of the AOS provider or that AOS provider's toll free number on the bill.¹⁰ Accordingly, the Petitioners' existing software requires modifications to accommodate varying levels of screening and identification of an AOS provider, and to provide for the name and contact number of the AOS provider. These demands will, in turn, affect the processing time associated with rendering the bills. Compounding these challenges for Mebtel and Gallatin River, however, is the fact that, in August, 1999, EUR informed Mebtel and Gallatin River that no programming changes would be undertaken until February, 2000 in light of Year 2000 issues.

B. Additional Compliance Issue with Respect to the TIB Separate Provider Requirement

In addition, Mebtel and Gallatin River are technically incapable of separating by service provider the charges they currently list for an affiliated Internet Service Provider ("ISP"). Currently, charges for Mebtel Internet Services are included in the section of the bills of both Mebtel and Gallatin River that contain those companies' respective local service charges. EUR has indicated that the billing system software necessary to comply with this rule will not be available until April 1, 2000. Moreover, once the system software is fully developed to comply with this TIB rule, the bills will then need to be tested. Even in the absence of this additional bill detail, however, Mebtel

84,000 end user bills that Gallatin River renders in a given month. Gulf's review of a representative month's data indicates that the instances where charges for two (2) or more AOS service providers arise on a customer's bill occur in less than approximately five (5) percent or typically less than 2,500 of the approximately 50,000 end user bills that Gulf renders in a given month.

¹⁰ Although the Petitioners typically have the authority to issue credits to customers for AOS charges, the AOS providers may, independently, seek payment of those charges from customers. Accordingly, the Petitioners are not "fully authorized to resolve consumer complaints on the carrier's behalf." 47 C.F.R. § 64.2401(d). Moreover, the Petitioners note that, in their experience, customer inquiries regarding AOS provider charges are minimal.

and Gallatin River have each had minimal customer complaints regarding their charges for ISP services.

Accordingly, the Petitioners will be technically incapable of complying with the November 12, 1999 date by which the TIB Requirements are scheduled to go into effect.¹¹ Consistent with the implementation of other TIB-required billing software changes and based on discussions that Mebtel and Gallatin River have had with EUR and Gulf's internal review, the Petitioners anticipate that compliance with these TIB Requirements should be possible by April 1, 2000.

II. Good Cause Exists for and the Public Interest will be Served by a Grant of this Limited Waiver

Based on these facts and circumstances, the Petitioners respectfully submit that good cause exists for a grant of this limited waiver, and that the public interest will be served by such action. As demonstrated herein, Petitioners are making diligent efforts to comply with the TIB Requirements effective November 12, 1999. However, the Petitioners' compliance with the TIB Requirements is not feasible by this date in light of the various billing system software upgrades being developed and the need for successful testing of these upgrades. Moreover, the Commission's November 12, 1999 implementation date for the TIB Requirements is further complicated by efforts to address Year 2000 issues.¹² The Petitioners anticipate that compliance with the TIB Requirements should be possible by April 1, 2000. Accordingly, for the reasons stated, good cause

¹¹ See n.6, supra.

¹² Accord USTA Petition at 4, 9, and 11.

exists for this waiver.¹³

The Petitioners also respectfully submit that the public interest would be served by a grant of this request. First, the Commission has recognized the need to balance the implementation of new regulatory directives which affect computerized systems with on-going Year 2000 activities.¹⁴ The software changes required by Petitioners' billing system clearly fall into this Commission-defined category. The Commission's concerns regarding utilization of its Year 2000 Policy Statement to "'forestall' or 'roll back' disfavored regulations, or use this policy for purposes of competitive advantage"¹⁵ are not applicable here. The Petitioners are working toward TIB compliance and seek only a limited extension of time that is otherwise consistent with the underlying objectives which justified the Commission-prescribed compliance date of certain other TIB rules. Accordingly, there is no basis to conclude that the Petitioners are attempting to "forestall" or "roll back" disfavored regulations. In addition, there is no "competitive advantage" associated with this request. A grant of this waiver does not affect a competitor of the Petitioners; rather it allows an interim measure to

¹³ "The Commission may exercise its discretion to waive a rule where particular facts would make strict compliance inconsistent with the public interest." WAIT Radio v. FCC, 418 F.2d 1153, 1159 (D.C. Cir. 1969). Waiver of a Commission rule is appropriate where (1) the underlying purpose of the rule will not be served, or would be frustrated, by its application in a particular case, and grant of the waiver is otherwise in the public interest, or (2) unique facts or circumstances render application of the rule inequitable, unduly burdensome or otherwise contrary to the public interest, and there is no reasonable alternative. Northeast Cellular Telephone Co., L.P. v. FCC, 897 F.2d 1164, 1166 (D.C. Cir. 1990).

¹⁴ See In the Matter of Minimizing Regulatory and Information Technology Requirements That Could Adversely Affect Progress Fixing the Year 2000 Date Conversion Problem, Year 2000 Network Stabilization Policy Statement, FCC 99-272, released October 4, 1999 ("Year 2000 Policy Statement") at para. 15.

¹⁵ Id. at para. 16.

be implemented that allows continuation of existing billing arrangements in a manner consistent with the status of the overall TIB compliance efforts by the Petitioners.¹⁶

Second, the Commission has already determined that the April 1, 2000 date is appropriate for implementing other TIB rules.¹⁷ Accordingly, the ability of the Petitioners to continue to work toward the April 1, 2000 implementation date for all TIB rules would ensure efficiency and continuity in the enhancements to the Petitioners' billing system capability without incurring unnecessary expenditures or jeopardizing Year 2000 compliance issues.

Third, the underlying goal of the TIB Requirements -- the ability of a customer to identify charges and inquire about a charge -- would not be frustrated by a grant of the requested waiver. As is done today, even after the requested waiver expires, the Petitioners will continue to provide customer service assistance regarding billing inquiries and questions. For example, Mebtel and Gallatin River will continue to provide their local telephone number on the bill in order to allow customers to contact them about charges for internet services. Likewise, when a customer questions

¹⁶ These conclusions are further corroborated for Mebtel by the public interest determination reached by the North Carolina Utilities Commission ("North Carolina Commission") with respect to efforts by North Carolina telecommunications companies to address Year 2000 issues. See In the Matter of The Year 2000 Computer Issue, Order Concerning a Year 2000 Transition Stabilization Period, Docket No. M-100, Sub 126, released June 25, 1999. In particular, the North Carolina Commission determined that the interest of North Carolina would be served by granting all North Carolina telecommunications utilities a moratorium on implementing network support systems from November 1, 1999 through February 1, 2000, while, at the same time, leaving open the possibility of additional time if demonstrated by a company. See id. at 1-2. On September 27, 1999, Gulf, together with 17 other rural local exchange carriers in Alabama, filed a request with the Alabama Public Service Commission for a stabilization period from November 1, 1999 through February 29, 2000, for network services and information technology systems such as billing systems, financial systems, etc.

¹⁷ See n. 8, supra.

an AOS provider charge, each of the Petitioners will, at the customer's option, provide the AOS provider's toll free number or will seek to establish a three-way conference call with the AOS provider (or its billing clearinghouse) in order that the customer may address his/her concern about a charge. Accordingly, the goal of the TIB Requirements will be advanced. Waiver of the TIB Requirements as requested herein will merely maintain the status quo until such time as the billing system modifications are made and successfully tested, while effecting the goals of these requirements in an alternative manner.

Finally, the Petitioners note that, in the absence of this limited waiver of the TIB Requirements, the ability of the Petitioners to bill for isolated customer-originated traffic on behalf of AOS providers or, for Mebtel and Gallatin River, to bill for the ISP would be in jeopardy. Facing the risk of non-compliance with the TIB Separate Provider Requirement and TIB Inquiry Contact Requirement, the Petitioners may be forced to consider terminating their billing relationship with such AOS providers. This, in turn, may increase the cost to the AOS provider and/or the ISP of billing, thereby inhibiting the continued development of a competitive marketplace for both interexchange and internet services.

Even assuming that harm to the public interest is present, that harm does not outweigh the public interest benefits arising from a grant of this request. As indicated, the concerns expressed by the Petitioners' consumers regarding AOS provider charges and, for Mebtel and Gallatin River, the ISP charges, have been minimal. Moreover, each of the Petitioners anticipate that this experience will not change during the time that the requested waiver is in place.

III. Conclusion

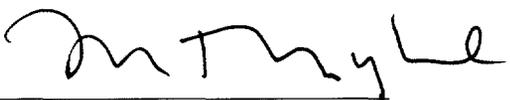
Because the Petitioners are technically incapable of complying with the TIB Requirements by November 12, 1999, a grant of this request until April 1, 2000 will ensure that the Petitioners can implement and successfully test the billing system software upgrades required to implement the TIB Requirements in an efficient manner, while avoiding unnecessary expense or raising additional Year 2000 compliance issues. At the same time, the consumer goals of the these TIB rules will not be frustrated by a grant of this request. Rather, such goals will be furthered by the Petitioners as they continue to provide customer assistance and responsiveness when questions are received regarding the charges from particular carriers and for particular services.

Accordingly, in the event that action on the USTA Petition and/or the Associations' Petition does not grant the extent of the relief requested herein, the Petitioners request a waiver of the requirements of 47 C.F.R. §§ 64.2401(a)(2) and 64.2401(d) until April 1, 2000.

Respectfully submitted,

**Mehtel Communications, Inc.
Gallatin River Communications
Gulf Telephone Company**

By



David Cosson
Thomas J. Moorman
Margaret Nyland

Their Attorneys

Kraskin, Lesse & Cosson, LLP
2120 L Street, N. W., Suite 520
Washington, D.C. 20037
202/296-8890

November 5, 1999

**Declaration of Michael Skriwan
Executive Vice President - Revenues
Mebtel Communications, Inc.
Gallatin River Communications**

I, Michael Skriwan, Executive Vice President - Revenues of Mebtel Communications, Inc. and Gallatin River Communications (the "Companies"), do hereby declare under penalties of perjury that I have read the foregoing "Petition for Temporary, Limited Waiver" and the information contained therein regarding the Companies is true and accurate to the best of my knowledge, information, and belief.

Date Nov 5, 1999

Michael Skriwan
Michael Skriwan
Executive Vice President - Revenues

**Declaration of Woodard S. Setzer
Vice President - Regulatory
Gulf Telephone Company**

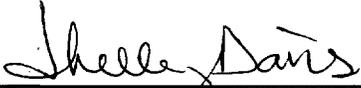
I, Woodard S. Setzer, Vice President - Regulatory of Gulf Telephone Company ("Gulf") do hereby declare under penalties of perjury that I have read the foregoing "Petition for Temporary, Limited Waiver" and the information contained therein regarding Gulf is true and accurate to the best of my knowledge, information, and belief.

Date 11/5/99


Woodard S. Setzer
Vice President - Regulatory

CERTIFICATE OF SERVICE

I, Shelley Davis, of Kraskin, Lesse & Cosson, LLP, 2120 L Street, NW, Suite 520, Washington, DC 20037, hereby certify that a copy of the foregoing "Petition for Temporary, Limited Waiver" of Mebtel Communications, Gallatin River Communications and Gulf Telephone Company was served on this 5th day of November, 1999 by hand delivery to the following parties:



Shelley Davis

Lawrence Strickling, Chief
Common Carrier Bureau
Federal Communications Commission
445 12th Street, SW Room 5-C450
Washington, DC 20554

Lisa Zaina, Acting Deputy Bureau Chief
Common Carrier Bureau
Federal Communications Commission
445 12th Street, SW, Room 5-B303
Washington, DC 20554

Glenn T. Reynolds, Chief
Enforcement Division
Common Carrier Bureau
Federal Communications Commission
445 12th Street, SW, Room 5-A847
Washington, DC 20554

David Konuch, Attorney
Common Carrier Bureau
Federal Communications Commission
445 12th Street, SW, Room 5-C313
Washington, DC 20036

International Transcription Services
1231 20th Street, NW
Washington, DC 20554