MCI WORLDCOM

1801 Pennsylvania Avenue, NW
Washington, DC 20006

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December 13, 1999

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

Ms. Magalie R. Salas
Secretary
Federal Communications Commission
445 12th Street, SW, TW-A325
Washington, DC 20554

Re: Ex Parte In the Matter of 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, CC Docket No. 94-129

Dear Ms. Salas:

Attached please find an ex parte letter sent today from Mary L. Brown, Senior Policy Counsel, MCI WorldCom, to Glenn Reynolds, Chief, Market Disputes Resolution Division, Enforcement Bureau, Federal Communications Commission. Please include this letter in the record of the above-captioned proceeding.

An original and one copy of this letter are being submitted pursuant to Section 1.1206 of the Commission's Rules.

Sincerely,

Lori Wright
Senior Manager, Regulatory Affairs

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MCI WORLDCOM

1801 Pennsylvania Avenue, NW
Washington, DC 20006

December 13, 1999

EX PARTE

Glenn Reynolds
Chief, Market Disputes Resolution Division
Enforcement Bureau
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

Re: In the Matter of 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, CC Docket No. 94-129

Dear Mr. Reynolds:

On December 23, 1998, the Commission released an order in the above-captioned docket implementing the subscriber carrier selection changes provisions of the Telecommunications Act of 1996.[1] In that order, the Commission delineated procedures for changing subscribers' carrier selection (i.e., PIC changes) and liability rules for unauthorized conversions. Since release of the Order, MCI WorldCom has encountered difficulties responding to customer PIC change requests owing to the intransigent and anticompetitive behavior of certain incumbent local exchange carriers (ILECs).

The Commission correctly recognized in its Order that ILECs acting as executing carriers have the incentive to try to "win back" the customer through the verification process. Since the Order was released, MCI WorldCom has uncovered many cases where the ILECs have attempted to win back the customer through "verification," especially in instances where the ILECs refuse to allow us to change a PIC request or modify a preferred carrier (PC) freeze on a three-way call. Executing carriers have an obligation, as supported by paragraphs 103 and 105 of the Commission's Order, to lift a PC freeze and switch a customer during the same three-way call. Since the Commission's Order became effective, MCI WorldCom has experienced continued difficulties making authorized carrier changes where PC freezes were involved in the Bell Atlantic and PacBell areas.

When MCI WorldCom makes a sale, the call is handed off to an independent third party for verification. After the carrier change is verified, MCI WorldCom electronically sends the request to

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[1] In the Matter of Implementation of 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 and Further Notice of Proposed Rulemaking, CC Docket No. 94-129 (rel. Dec. 23, 1998)(Order)

change that customer's PIC to the executing carrier. In instances where that customer had a PC freeze in place, but perhaps had forgotten, the PIC change request is rejected by the executing carrier and sent back to MCI WorldCom. At that point, MCI WorldCom, which has already independently verified the carrier change request, contacts the customer and initiates a three-way call between the executing carrier, the customer, and MCI WorldCom. MCI WorldCom's experience is that Bell Atlantic and Pac Bell will permit a customer to lift a PC freeze during the three-way call, but will not permit the customer to change the PIC or his or her freeze to another carrier unless the customer calls back again later.

The practices of these carriers are in clear violation of the Commission's subscriber carrier selection rules. Paragraphs 103 and 105 clearly require executing carriers to handle PC freezes and PIC changes on a nondiscriminatory basis and based on the most technologically efficient means available. Requiring the customer to participate in a 3-way-call or call once to lift his or her PC freeze, and then again to change his or her PIC, is not technologically efficient, and certainly is not the practice employed by these executing carriers when their customers want to change their intraLATA toll or local providers to the executing carrier.

In addition, the actions of Bell Atlantic and PacBell cause unnecessary customer confusion and frustration. Bell Atlantic and Pacific Bell are preventing customers from obtaining service and rates (e.g., MCI WorldCom's 5¢ Everyday) from the provider of choice in a timely manner. In the instances where a customer is required to call the ILEC back to change his or her PIC, it is likely that the customer will not obtain the exact toll rates and programs requested by that customer. In such instances, the PIC change must be treated as a LEC-initiated installation with the customer receiving basic dial-1 rates, which most likely is not the program the customer requested or expected. As a result of these carriers' anticompetitive actions, if the customer requested and wants specific promotions or services from the IXC, the customer must contact the IXC again later after the ILEC changes the PIC in order to get the product and rate he or she requested. In these instances, it is not hard to imagine why a customer would be frustrated by having to confirm no less than five times that he or she wants a particular IXC product or rate.

In its September 1, 1999 letter,[2] SBC contends that it is not obligated by the Order to re-PIC the customer on a three-way call to the carrier that the customer has chosen. SBC's reading of the Order is overly narrow, in that the Commission clearly intended in paragraphs 103 and 105 to ensure that customers may make carrier changes expeditiously and efficiently. Surely the Order did not intend for customers who have unquestionably selected their carrier-of-choice to endure the timely and tedious process that Bell Atlantic and PacBell engage in.

Any concerns on the part of the ILECs that the customer could somehow be manipulated or pressured by the presence of the IXC on the same call with the customer is nothing more than a red herring. The PIC change has already been verified by an independent third party. Additionally, if the executing carrier had such concerns, it could always ask the customer, who is currently part of the

[2] Letter from Christine Jines, SBC, to Kim Parker, FCC, CC Docket No. 94-129, dated Sept. 1, 1999.

three-way call, whether the change is authorized. SBC's contention in its September 1, 1999 letter that there would be no record of a carrier change transaction if that transaction were implemented during a three-way call is flatly incorrect.[3] At the time a three-way call takes place, PacBell and the other LECs possess LEC-initiated change orders, which represent an undisputable record of the customer's decision to change carriers. These ILECs are clearly acting in a manner that is anticompetitive and technologically inefficient. Executing carriers should no longer be permitted to skirt the Commission's clearly stated carrier selection change rules simply to promote their own business interests. The Commission should act to ensure that executing carriers fully and expeditiously comply with all facets of its Subscriber Carrier Selection rules.

Another example where the ILECs are not complying with the Commission's Order is Ameritech's and US West's requirement that a multi-line customer freeze all of its lines, rather than just those lines that the customer would like frozen. Section 64.1190 of the Commission's rules clearly and repeatedly states that PC freezes are to be implemented for discrete telephone lines. Section 64.1190(2)(B) provides that no LEC shall implement a PC freeze unless the subscriber's request to impose a freeze has first been confirmed in accordance with an FCC-approved verification method, which include requirements to obtain the telephone number(s) upon which the preferred carrier freeze is to be imposed. Indeed, Section 64.1190(d)(3)(B)(i) and (ii), respectively, explicitly state that, at a minimum, written authorizations must confirm:

> "[t]he subscriber's billing name and address and the telephone number(s) to be covered by the preferred freeze." [Emphasis added]
>
> "[t]he decision to place a preferred carrier freeze on the telephone number(s) and particular service(s)." [Emphasis added]

The Commission should act to ensure that executing carriers fully and expeditiously comply with all facets of its Subscriber Carrier Selection rules. The Commission should clarify for Bell Atlantic and PacBell that they must permit a customer to lift a PC freeze and change the PIC and PC freeze to another carrier during a single three-way call, as was intended by the Commission's Order. Additionally, the Commission should direct Ameritech and US West to implement and remove PC freezes at the line level so that MCI WorldCom and other long distance carriers can respond to consumer demands that they be permitted to protect themselves from unauthorized conversions on a line-by-line basis as the Order requires. Aside from hindering customer service, ILECs who prevent line-level PC freezes remove the right of consumers to take advantage of the competitive environment to freely choose the best products for their personal needs on each of their lines.

Sincerely,

Mary L. Brown

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[3] Id.