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

In the Matter of	)	
	)	
2000 Biennial Regulatory Review	)	
Review of Policies and Rules Concerning	)	CC Docket No. 00-257
Unauthorized Changes of Consumers	)	
Long Distance Carriers	)	
	)	
Implementation of the Subscriber Carrier	)	
Selection Changes Provisions of the	)	
Telecommunications Act of 1996	)	CC Docket No. 94-129
	)	
Policies and Rules Concerning	)	
Unauthorized Changes of Consumers	)	
Long Distance Carriers	)	

AT&T PETITION FOR CLARIFICATION OR, IN
THE ALTERNATIVE, LIMITED RECONSIDERATION

Pursuant to Section 1.429 of the Commission's Rules, 47 C.F.R. § 1.429, AT&T Corp. ("AT&T") requests the Commission to clarify, or in the alternative grant limited reconsideration of, the May 15 Order in this proceeding,[1] which prescribed streamlined procedures for carrier-to-carrier sale or transfer of subscriber bases under Section 258 of the Communications Act of 1934, as amended (47 U.S.C. § 258). Although those new rules generally achieve the Commission's

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[1] 2000 Biennial Regulatory Review of Policies and Rules Concerning Unauthorized Changes of Consumers Long Distance Carriers; 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, First Report and Order in CC Docket No. 00-257 and Fourth Report and Order in CC Docket No. 94-129, FCC 01-156, released May 15, 2001 ("May 15 Order"), published 66 FR 28817 (May 22, 2001). The streamlined procedures adopted in the decision are effective June 21, 2001. See Public Notice, DA 01-1447 (released June 18, 2001).

intended objective of removing unnecessary regulatory burdens that could impair carriers' ability expeditiously to complete such transactions, one aspect of the decision -- specifically, the statement (¶ 22) that carriers must provide "detailed" information about their services to newly-acquired customers -- may result in substantial needless expense and delay for participants in such transactions. The purported requirement discussed in the decision forms no part of the implementing regulations adopted in the May 15 Order. The Commission should therefore clarify that the rules are not intended to impose more stringent advance disclosure requirements than have heretofore applied under the Commission's waiver process. Alternatively, the Commission should reconsider and modify the rules to eliminate a requirement to provide "detailed" service information.

The May 15 Order replaces the cumbersome, inefficient, uncertain and time-consuming process for granting waivers of Section 258 and its implementing regulations through which the Commission had addressed carriers' sale or transfer of subscribers in scores of individual proceedings since 1999. The Commission instead has incorporated into Section 64.1120 of its carrier selection rules a streamlined self-certification and notification process for carrier-to-carrier sales or transfer of subscriber bases. Carriers that satisfy these requirements need not obtain individual authorization and verification of carrier changes for affected customers.

The disclosure principles that underlie the new self-certification procedure and those which guided the Commission's waiver process are substantively

almost identical,[2] except that the revised rules eliminate certain burdensome and unnecessary features of the waivers such as the superfluous and costly requirement that acquiring carriers provide a second, post-closing notice to customers of the transaction.[3] Thus, under the Commission's new self-certification process, acquiring carriers are required to provide subscribers notice of certain basic information in advance of the transaction.

In particular, the new Section 64.1120(e)(3)(ii) of the Commission's rules requires the carrier to include in that notice "the rates, terms and conditions of the service(s) to be provided" to transferred customers, and the means by which they will be notified of changes in those service features. Disclosure of such information has likewise been a feature of the waiver process.[4] Nothing in the Third Further Notice proposing the new self-certification process suggested that the Commission intended the revised rule to be more onerous than the then-existing waiver procedure in this regard.[5]

However, the portion of the Commission's decision summarizing the new Section 64.11209e)(3)(ii) stated in passing that carriers' advance notice to

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2 Compare Implementation of the Subscriber Carrier Selection Changes Provisions of the Telecommunications Act of 1996, Third Further Notice of Proposed Rulemaking, FCC 00-451, released January 18, 2001 ("Third Further Notice"), ¶ 5, with, e.g., Implementation of the Subscriber Carrier Selection Changes Provisions of the Telecommunications Act of 1996 (McLeodUSA Telecommunications Services, Inc. Petition for Waiver), 15 FCC Rcd 22886 (Com.Car.Bur. 2000)("McLeodUSA Waiver").

3 May 15 Order, ¶ 15.

4 See, e.g., McLeodUSA Waiver, supra.

5 See Third Further Notice, ¶¶ 5-6.

customers "must contain detailed information on the rates, terms and conditions" of the services that will be provided to acquired customers. See May 15 Order, ¶ 22 (emphasis supplied). This gloss on the rule's requirement is unsupported by any language in the text of that regulation, or in the notice of proposed rulemaking that resulted in adoption of the rule, both of which were clearly intended to be consistent in this respect with prior practice under the waiver process.

Indeed, it appears that the Commission's summary description of the rule's requirements was intended instead to contrast those obligations with an alternative disclosure process that had been suggested in the comment cycle and which the Commission expressly rejected in the May 15 Order. Specifically, commenters had proposed that carriers could "simply refer the affected subscribers to the acquiring carrier's website," created in response to the Commission's detariffing orders, to obtain information about their service offerings. The May 15 Order (¶ 23) concluded, however, that transferred customers were entitled "to receive direct initial notice of the applicable rates, terms and conditions of the new service offerings." Similarly, the Commission rejected proposals to provide acquired customers only the service rates of the acquiring carrier, or no information whatever regarding the new carrier's service terms and conditions. Id. Especially in view of its juxtaposition with these passages in the Commission's decision, as well as the Commission's express objective of reducing existing regulatory burdens on carriers engaged in sales or transfer of customer bases, AT&T believes that the summary description of Section 64.1120(e)(3)(ii) in paragraph 22 of the May 15 Order cannot reasonably be read to

expand upon the obligations of carriers explicitly set forth in that regulation to provide information concerning their services to acquired customers.

Compelling an acquiring carrier to provide "detailed" information on rates, terms and conditions would magnify enormously the difficulty and expense of the customer notification mandated under the Commission's self-certification process.[6] Clearly, the most reasonable approach consistent with the language of Section 64.1120(e)(3)(ii) is to permit acquiring carriers to summarize in their notifications the material terms of their service offering(s) to affected acquired customers. AT&T requests that the Commission clarify the May 15 Order to confirm the correctness of this reading of its decision.

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6 Carriers generally offer numerous rate plans with differing monthly fees, usage charges and frequently other rate-affecting provisions (e.g., day of week, time of day, length of haul, etc.) Moreover, terms and conditions of service cover a vast number of areas, including (but not limited to) such matters as service availability; conditions for termination and restoration of service; abusive, fraudulent and other impermissible use of services; liability of the carrier to customers and third parties; times, places, and methods of payment, and application of charges; late payment and deposit provisions; and credit provisions for service interruptions, wrong numbers, and other causes. Setting forth "detailed" information regarding these provisions and numerous others in notification mailings to customers would greatly increase the bulk (and, consequently, the costs of production and mailing) of the required notifications, and customers generally would find such data of little value in deciding whether to retain service from the requiring carrier or to select another service provider.

WHEREFORE, for the reasons stated above, the Commission should clarify the May 15 Order as requested herein or, in the alternative, reconsider and modify that decision in accordance with AT&T's Petition.

Respectfully submitted,

AT&T Corp.

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June 21, 2001

CERTIFICATE OF SERVICE

I, Theresa Donatiello Neidich, do hereby certify that on this 21st day of June, 2001 a copy of the foregoing "AT&T Petition for Clarification or, in the Alternative, Limited Reconsideration" was served by US first class mail, postage prepaid, on the parties named on the attached service list.

/s/ Theresa Donatiello Neidich
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