

Before the
Federal Communications Commission
Washington, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of)
)
 2000 Biennial Regulatory Review)
 Review Policies and Rules Concerning)
 Unauthorized Changes of Consumers)
 Long Distance Carriers)
)
 Implementation of the Subscriber Carrier)
 Selection Changes Provision of the)
 Telecommunications Act of 1996)
)
 Policies and Rules Concerning)
 Unauthorized Changes of Consumers)
 Long Distance Carriers)

CC Docket No. 00-257/

CC Docket No. 94-129

COMMENTS OF WORLDCOM, INC.

WorldCom, Inc., hereby files in response to SBC's Petition for Reconsideration and AT&T's Petition for Clarification or, In the Alternative, Limited Reconsideration.¹

A. Bypassing PIC Freezes

SBC urges the Commission to modify its rule and not require local exchange carriers (LECs) to lift freezes on any service(s) involved in a carrier-to-carrier sale or transfer, to the extent that mechanized processes or other methods allow LECs to bypass

¹ See Petition for Reconsideration of SBC Communications Inc. (June 21, 2001)(SBC Petition) and AT&T Petition for Clarification or, In the Alternative, Limited Reconsideration (June 21, 2001)(AT&T Petition), In the Matter of 2000 Biennial Regulatory Review of Policies and Rules Concerning Unauthorized Changes of Consumers Long Distance Carriers; Implementation of the Subscriber Carrier Selection Changes Provision 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 (rel. May 15, 2001), published 66 FR 28817 (May 22, 2001)(May 15 Order).

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the freeze, without actually lifting the freeze, to effect the transfer.² In such instances, SBC suggests that the acquiring carrier need only be required to inform subscribers that their existing freeze protections will remain in place after the transfer.³ SBC argues that the Commission adopted this requirement solely to ensure that subscribers with freeze protection do not lose presubscribed service for failing to remove a freeze prior to the transfer.⁴ The Commission should reject SBC's argument. Incorporated in the Commission's new streamlined procedures is the principle that subscribers experiencing a carrier change due to sale or transfer must be informed in advance that they have the right to make another preferred carrier selection.⁵ The Commission correctly observes in its May 15 Order that subscribers experiencing a carrier change due to sale or transfer did not choose the acquiring carrier and should receive reasonable notice that they have the right to select a new carrier if they do not want to be served by the acquiring carrier.⁶ Informing customers that their existing freeze protections will remain in place after the transfer, as SBC suggests, is not the same as informing customer that they have the right to choose an alternative carrier. Permitting local exchange carriers to bypass the freeze, without actually lifting the freeze, to effect a carrier-to-carrier sale or transfer, would severely hamper a customer's ability to choose an alternative carrier. If SBC's proposal were to be adopted, customers would be PIC-frozen to a carrier without ever expressing a desire to be PIC-frozen to that carrier. This is contrary to the purpose of PIC freezes,

² SBC Petition at 6.

³ *Id.*

⁴ *Id.*

⁵ The majority of commenters supported the Commission's adoption of rules requiring local exchange carriers (LECs) to lift freezes on any service(s) involved in a carrier-to-carrier sale or transfer. See., e.g., Qwest Comments at 5; Sprint Comments at 2; and AT&T Comments at 4.

⁶ May 15 Order at ¶26.

which are designed to protect a customer's choice of carrier.⁷ Instead, SBC's proposal would simply achieve the goal of protecting an acquiring carrier's new customer base.

B. Default Carrier Change Charges.

SBC urges the Commission to consider modifying its rule requiring acquiring carriers to be responsible for any charges associated with a carrier-to-carrier sale or transfer. SBC maintains that the Commission's rules may, in some instances, fundamentally alter the notice and financial obligations for any state-created default carrier requirements – in a manner neither envisioned by the states nor intended by the Commission.⁸ Further, SBC asserts that the Commission's requirement may conflict with or nullify state rules that require the exiting CLEC to pay carrier change charges. The Commission should reject SBC's argument. The Commission has stated that its intention in adopting its May 15 Order was to streamline carrier change rules consistent with section 258 of the 1996 Act.⁹ Like section 258, the rules adopted by the Commission here apply to both interstate and intrastate, as well as local, carrier charges. As the Commission correctly observes, the affected subscribers of CLECs are entitled to the same protections and notice as any other subscriber whose carrier is changed due to sale or transfer.¹⁰ To the extent that state rules make it difficult for SBC to comply precisely

⁷ *Second Report and Order and Further Notice of Proposed Rulemaking, 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 (rel. Dec. 23, 1998) at ¶114 (PIC Freezes are designed to “enhance[] competition by fostering consumer confidence that they control their choice of service provider”).

⁸ SBC Petition at 3.

⁹ May 15 Order at ¶2.

¹⁰ *Id.* at ¶20.

with the Commission's requirements, SBC can request that the Common Carrier Bureau resolve the issue on a case-by-case basis.¹¹

Moreover, not requiring default acquiring carriers to be responsible for any carrier change charges associated with a carrier-to-carrier sale or transfer could afford default acquiring carriers a competitive advantage unintended by the Commission. Under SBC's proposal, default carriers could acquire the customer bases of exiting carriers at no charge. If it is significantly less costly for LECs to acquire subscribers by default than by negotiation, default acquiring LECs have no incentive to negotiate with competitors for those customers. Thus, default acquiring LECs, like SBC, can use their monopoly power as the default provider to acquire customers at no cost.

C. AT&T's Petition

AT&T asks the Commission to clarify the portion of its decision summarizing the new section 64.11209(e)(3)(ii) which states in passing that carriers' advance notice to customers "must contain detailed information on the rates, terms, and conditions of the service(s) the acquiring carrier will provide."¹² AT&T's concern is that the Commission's summary description of the rule's requirements appears to expand upon the obligations of carriers to provide information concerning their services to acquired customers that are explicitly set forth in the Commission's new rules.¹³ In WorldCom's view, the Commission merely intended to institutionalize the amount of detail already required under the waiver process. The Commission did not intend to expand upon carriers' obligations, but to simply describe the amount of information carriers are currently required to provide. If, however, as AT&T suggests, the Commission did intend to

¹¹ *Id.*

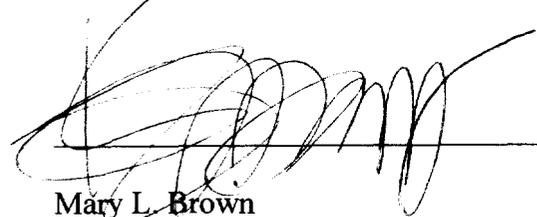
impose more stringent advanced disclosure requirements than were required when considering waivers of the rules implementing section 258, the Commission should reconsider and modify its rules to eliminate the requirement to provide “detailed” service information.

D. Conclusion

For the foregoing reasons, WorldCom urges the Commission to deny SBC’s Petition for Reconsideration and, to the extent discussed above, reconsider and modify its rules in accordance with AT&T’s Petition for Clarification, or in the Alternative, Limited Reconsideration.

Respectfully Submitted,

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¹² *Id.* at ¶22.

¹³ AT&T Petition at 4-5.

Certificate of Service

I, Barbara Nowlin do hereby certify that copies of the foregoing Comments to Petition for Reconsideration of WorldCom, Inc. were sent via first class mail, postage paid to the following on this 25th day of July, 2001.

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