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Stephen C. Garavito  
General Attorney

Room 1131M1  
295 North Maple Avenue  
Basking Ridge, NJ 07920  
908 221-8100  
FAX 908 630-3424  
EMAIL garavito@att.com

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FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

August 8, 2001

Ms. Magalie Roman Salas  
Secretary  
Federal Communications Commission  
445 12<sup>th</sup> Street, SW  
Room TW-A-325  
Washington, DC 20554

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:

This letter corrects an error in the Motion of AT&T Corp. for Expedited Decision filed on August 7, 2001. The Certificate of Service appended to the motion inadvertently stated that service was made by hand delivery, when service was in fact made via the U.S. mail. I have enclosed herein a substitute copy of the motion with a corrected certificate of service. In addition, a copy of the corrected motion is being provided to all parties listed on the service list.

Sincerely,

*Stephen C. Garavito/ha*

SCG:tdn

Enclosures

cc: Parties on the Service List attached

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

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Changes of Consumers Long Distance Carriers )

**MOTION OF AT&T CORP.  
FOR EXPEDITED DECISION**

AT&T Corp. ("AT&T") hereby moves for expedited decision of its March 18, 1999 petition for clarification or, in the alternative, reconsideration<sup>1</sup> that the anti-slamming rules and procedures of the *Second Report and Order*<sup>2</sup> apply to carrier selections for newly-installed lines, as well as to carrier changes on existing lines. In August, 2000, more than a year after AT&T filed its petition, the Commission chose not to address this issue, but stated that it intended to address this portion of AT&T's petition "in the near future."<sup>3</sup> Another year has now passed, and

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<sup>1</sup> AT&T Corp. Petition for Partial Reconsideration or, in the Alternative, for Clarification, CC Docket 94-129 (filed Mar. 18, 1999).

<sup>2</sup> *Implementation of the Subscriber Carrier Selection Changes Provisions of the Telecommunications Act of 1996*, Second Report and Order and Further Notice of Proposed Rulemaking, FCC 98-334, CC Docket No. 94-129 (rel. Dec. 23, 1998) ("*Second Report and Order*").

<sup>3</sup> *Implementation of the Subscriber Carrier Selection Changes Provisions of the Telecommunications Act of 1996*, Third Report and Order and Second Order on Reconsideration, FCC 00-255, CC Docket No. 94-129 (rel. Aug. 15, 2000) ("*Third Report and Order*"), n. 12.

the evidence in the marketplace confirms that increasing numbers of consumers are being forced to select preferred carriers absent the protections against slamming that the Commission rightfully deemed essential. AT&T therefore requests that the Commission promptly clarify, or order on reconsideration, that the anti-slamming rules and procedures of the *Second Report and Order* apply to carrier selections for newly-installed lines, as well as to carrier changes on existing lines.

### INTRODUCTION

Long distance telephone service customers have for years reaped the enormous benefits of a vigorously competitive market in which hundreds of suppliers compete for customers on an equal playing field. This can be traced in large part to longstanding requirements that have prohibited abuse of the preferred carrier selection process. Such consumer protection is particularly important in the context of inbound customer calls to incumbent LECs. Today, more than five years after the passage of the Telecommunications Act of 1996, incumbent LECs continue to provide local service to virtually all customers in their service areas. As a result, a customer that relocates or purchases an additional line at an existing residence almost always calls the incumbent LEC to establish local service and selects an intraLATA toll or long distance carrier during that call.

As the Commission recognized in the *Second Report and Order*, “consumers who call carriers are just as vulnerable to being slammed as consumers who are called by carriers and are entitled to the same protection.”<sup>4</sup> Such protection is even more critical where incumbent LECs

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<sup>4</sup> *Second Report and Order*, ¶ 65.

offer long distance because “slamming will become even more prevalent when carriers begin to combine services to market to consumers.” *Id.* Whereas incumbent LECs who did not provide long distance were generally indifferent regarding a customer’s selection of a preferred long distance carrier, once they begin offering long distance they have a vested commercial interest in ensuring that their local exchange customers are assigned to their long distance affiliates, whether legitimately or otherwise.<sup>5</sup>

AT&T’s petition was filed more than two years ago. Prompt Commission action to resolve the issues raised in the petition would be required in all events. Here, expedited resolution is imperative – incumbent LECs do not apply the anti-slamming protections of the *Second Report and Order* to at least 20 percent of all customers for whom the incumbent LECs submit orders selecting their long distance affiliates.<sup>6</sup> The Commission therefore should act promptly to protect consumers from unscrupulous LECs by clarifying – or ordering on reconsideration – that the anti-slamming rules and procedures of the *Second Report and Order* apply to carrier selections for newly-installed lines, as well as to carrier changes on existing lines. Such action would close a loophole available to unscrupulous carriers and would promote uniformity so that both customers and carriers alike would have consistent expectations regarding the preferred carrier selection process.

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<sup>5</sup> *See id.* ¶ 12 (“because LECs will be competing with other carriers for consumers’ local and long distance services, LECs may not be neutral third parties in implementing carrier changes”).

<sup>6</sup> *See pp. 5-6, infra.*

## ARGUMENT

As the Commission has recognized, “for any competitive market to work efficiently, consumers must have information about their possible market choices and the opportunity to make their own choices about the products and services they buy.”<sup>7</sup> Slamming takes away such customer choice and instead “rewards those companies who engage in deceptive and misleading marketing practices by unfairly increasing their customer base at the expense of those companies that market in a fair and informative manner.” *Id.* For these reasons, the Commission held in the *Second Report and Order* that its verification rules apply to “any call made to a carrier that results in a carrier change request being submitted on behalf of a subscriber.” *Second Report and Order*, ¶ 66 (emphasis in original).<sup>8</sup> In our highly mobile society, millions of new subscriber lines are installed or activated annually as consumers change their residences and as business customers relocate or expand their locations. Moreover, consumers are rapidly adding additional lines to serve their residences to accommodate personal computers, fax machines, “teen lines” and other applications.<sup>9</sup> Customers routinely make an initial selection of preferred carriers for both interLATA and intraLATA toll services when these newly-installed lines are placed in service.

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<sup>7</sup> *Policies and Rules Concerning Unauthorized Changes of Consumers’ Long Distance Carriers*, Report and Order, FCC 95-225, CC Docket No. 94-129 (rel. Jun. 14, 1995) (“*First Report and Order*”) ¶ 9.

<sup>8</sup> *See also*, *Second Report and Order* ¶ 66 (“All calls that generate the submission of a carrier change on a subscriber’s behalf, regardless of the carrier receiving it or how the request was received, must be verified”).

<sup>9</sup> *See, e.g.*, *Defining Primary Lines*, CC Docket No. 97-181, Report and Order and Further Notice of Proposed Rulemaking, FCC 99-28 (rel. Mar. 10, 1999).

Nothing in the *Second Report and Order* suggests, much less demonstrates, that the Commission affirmatively intended to exclude this enormous body of customers from the protections adopted in that order. Indeed, as the Commission noted, “uniform application of the verification requirements to all in-bound and out-bound calls will decrease customer confusion about what to expect when making changes to their telecommunications services” and “will ease administration by eliminating any possible confusion or disputes regarding the applicability of call verification.” *Second Report and Order*, ¶ 66.

Furthermore, the potential for LEC abuse regarding a customer’s preferred carrier selection is just as serious in an initial carrier selection for a newly-ordered presubscribed line as where the customer wishes to change an existing carrier choice. Excluding such new orders from the scope of the *Second Report and Order*’s protections “would open a loophole for slammers,”<sup>10</sup> would expose a large class of customers to needless risk of harm, and would create risks to effective competition for these customers’ carrier selections. Indeed, SBC recently announced that it has obtained 2.8 million long distance lines in Texas (where it has been offering long distance a little over a year), Kansas (4 months), and Missouri (4 months).<sup>11</sup> In the last year alone, Verizon added 1.9 million long distance customers, with over 800,000 new long distance customers in second quarter 2001 alone, and is now the fourth largest long distance carrier.<sup>12</sup>

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<sup>10</sup> *Second Report and Order*, ¶ 63.

<sup>11</sup> SBC, *Investor Briefing*, July 25, 2001, at 2, available at [http://www.sbc.com/Investor/Financial/Earning\\_Info/docs/2Q\\_IB\\_FINAL\\_Color.pdf](http://www.sbc.com/Investor/Financial/Earning_Info/docs/2Q_IB_FINAL_Color.pdf)

<sup>12</sup> Verizon, *Investor Quarterly*, July 31, 2001, at 4, available at <http://investor.verizon.com/financial/quarterly/VZ/2Q2001/2Q01Bulletin.pdf>

Moreover, Verizon has estimated that at least 20% of its new long distance customers come from “new connects” – *i.e.*, a new customer seeking local service for the first time.<sup>13</sup> AT&T believes that the Commission did not intend to exclude these millions of customers from the protections of the *Second Report and Order*.

A customer seeking to initiate local service or add a second line, calls the incumbent LEC and routinely chooses a preferred carrier for intraLATA toll and interLATA service, just as a customer would that wanted to change his or her existing preferred carrier selection. In both situations, the incumbent LEC processes an electronic order to establish a preferred carrier. And, in either situation, the LEC can choose to ignore the customer’s preference and submit a preferred carrier selection for a carrier other than that selected by the customer. Yet, under the incumbent LEC construction of the *Second Report and Order*, they would be permitted to ignore or change the customer’s expressed carrier selection with impunity if the customer were seeking to initiate service or add a second line, but would be required to have independent verification of the customer’s carrier selection if the customer were changing from one preferred carrier to another. As the Commission recognized in initially applying its anti-slamming rules to both

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<sup>13</sup> *AT&T Corp v. New York Telephone*, EB-00-MD-011, Declaration of Mark Adams, Director of Consumer Mass Markets for Bell Atlantic Communications Inc., filed July 21, 2001, ¶ 19. This “LEC-connect” channel is extremely important to long distance carriers. AT&T, for example, used to obtain more than 50% of its PIC designations through this channel. *See id.*, Declaration of Robert M. Aquilina, Senior Vice President, AT&T Consumer Services, filed July 10, 2000. AT&T’s PIC designations through the LEC-connect channel began to decline precipitously after Verizon obtained long distance authority. *Id.* ¶ 7.

outbound and inbound calls, “there is [not] enough of a difference between the two situations to justify such vastly different treatment.” *First Report and Order* ¶ 42. The Commission accordingly should clarify that the *Second Report and Order* and its implementing regulations apply both to preferred carrier selection changes and to the initial selection of a preferred carrier. Alternatively, the Commission should reconsider the *Second Report and Order* to the extent necessary to apply the decision and rules to both types of carrier selections.

### CONCLUSION

For the foregoing reasons, the Commission should promptly clarify, or order on reconsideration, that the anti-slamming rules and procedures of the *Second Report and Order* apply to carrier selections for newly-installed lines, as well as to carrier changes on existing lines.

Respectfully submitted,

/s/ Stephen C. Garavito  
Mark C. Rosenblum  
Peter H. Jacoby  
Stephen C. Garavito  
AT&T Corp.  
295 North Maple Avenue  
Basking Ridge, NJ 07920  
(908) 221-4243

Counsel for AT&T Corp.

August 7, 2001

**CORRECTED  
CERTIFICATE OF SERVICE**

I, Theresa Donatiello Neidich, do hereby certify that on this 7th day of August, 2001, a copy of the foregoing "Motion of AT&T Corp. for Expedited Decision " was served by US first class mail, postage prepaid, on the attached service list:

/s/ Theresa Donatiello Neidich  
Theresa Donatiello Neidich

## SERVICE LIST

Gary Phillips  
1401 H Street, NW #1020  
Washington, DC 20005  
Counsel for Ameritech

Kathryn Marie Krause  
Suite 700  
1020 19th Street, N.W.  
Washington, DC 20036  
Attorney for US West  
Communications, Inc.

M. Robert Sutherland  
Richard M. Sbaratta  
Helen A. Shockley  
Suite 1700  
1155 Peachtree Street, N.E.  
Atlanta, GA 30306-3610  
Attorneys for Bellsouth  
Telecommunications, Inc.

Rachel J. Rothstein  
Paul W. Kenefick  
Johnathan Session  
8219 Leesburg Pike  
Vienna, VA 22181  
Attorneys for Cable and Wireless  
USA, Inc.

Don Sussman  
1133 19th Street, N.W.  
Washington, DC 20036  
Attorneys for WorldCom, Inc.

Teresa K. Gaugler  
Jane Kunka  
4250 North Fairfax Drive  
Arlington, VA 22203  
Attorneys for Qwest  
Communications Corporation

John F. Raposa  
GTE Service Corporation  
HQE03J27  
600 Hidden Ridge  
PO Box 152092  
Irving, TX 75015-2092