412

ORIGINAL

RECEIVED
STATE OF COLORADO
1999 APR 12 AM 8:31

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

* * *

AT&T COMMUNICATIONS OF THE MOUNTAIN STATES, INC.,	)	
Complainant,	)	
v.	)	Docket No. 99F-162T
U S WEST COMMUNICATIONS, INC.	)	(Consolidated from 99K-193T)
Respondent.	)	

FORMAL COMPLAINT AGAINST
U S WEST COMMUNICATIONS, INC. FOR
INTRALATA PIC FREEZES ("JAMMING")

Pursuant to Commission Rules 22 and 61, AT&T Communications of the Mountain States, Inc. ("AT&T") hereby submits its complaint against U S WEST Communications, Inc., ("U S WEST").

Parties and Jurisdiction

1. AT&T is a competitive local exchange carrier and an interexchange carrier authorized to provide intraLATA and interLATA long distance services in Colorado.

2. U S WEST is an incumbent local exchange carrier authorized to provide local exchange service and intraLATA long distance service in Colorado.

3. The Commission has jurisdiction over this complaint pursuant to § 40-6-108, C.R.S. and § 40-15-112 C.R.S.

Background

4. This Commission adopted rules regulating changes to a telephone end-user's pre-subscription carrier choice. These rules are contained in 4 CCR 723-2-25 (the "Slamming Rules"). The rules define "slamming" as:

> *Any* change in an end-use customer's presubscription to a telecommunications service subject to the jurisdiction of the Commission which is made without the appropriate consent of the customer.

4 CCR 723-2-25.1.2 (emphasis added). IntraLATA toll service within the state of Colorado is subject to this Commission's jurisdiction.

5. In addition to the definition, the Commission's Slamming Rules establish that a carrier must "freeze" a customer's pre-subscription choice "*when a customer designates* its existing [carrier] as a permanent choice *which may not be changed absent further written authorization initiated by the customer*." 4 CCR 723-2-25.4.1 (emphasis added).

6. Thus, "slamming" constitutes "any" change to a customer's telecommunications service without authorization, and to legally "freeze" a customer's choice requires prior designation of that carrier as a permanent choice with any further changes requiring written authorization initiated by the customer.[1]

---

[1] On December 23, 1998, the Federal Communications Commission ("FCC") issued rules that require carriers that offer freeze protection to obtain separate authorizations for each service for which a freeze is requested. Moreover, the carrier must obtain prior authorization and verify such choices. In the Matter of Implementation of the Subscriber Carrier Selection Changes Provisions of the Telecommunications Act of 1996 Polices and Rules Concerning Unauthorized Changes of Customers' Long Distance Carriers, CC Docket No. 94-129, Dec. No. FCC 98-334, (Dec. 17, 1998) at ¶ 211, to be codified at 47 CFR §64.1190. These rules become effective on April 27, 1999. At a minimum, U S WEST's admitted automatic PIC freeze extensions will violate the FCC's new rules, and constitute "slamming" under the applicable federal rules.

7. On February 8, 1999, the Commission instituted dialing parity for the intraLATA toll service in Colorado, thereby giving Colorado consumers an additional choice in selecting a carrier to handle their in-state, intraLATA long-distance calls. 4 CCR 723-27.1 through 27.11. Long-distance calls made within a LATA are also referred to as "local toll calls," "in-state long distance," "local long distance," and "regional or shorter distance calls." Prior to February 8, 1999, U S WEST was the only authorized provider of 1+/0+ intraLATA services in Colorado in its territory and for other parts of the state. Thus, by default, before February 8, 1999, all Colorado customers of intraLATA toll services were "PICd" to U S WEST.

8. In preparation for intraLATA toll carrier choice, the Commission, pursuant to its rules, required all local exchange carriers to notify customers of their right to choose an intraLATA toll carrier. U S WEST's notice is attached hereto as **Exhibit A,** and incorporated herein by reference.

9. Upon information and belief, U S WEST sent the notice referenced in Paragraph 8 to its customers in December of 1998 and January of 1999.

General Allegations

10. U S WEST has established a business practice of automatically appointing itself as the frozen carrier for all intraLATA calls where a customer has pre-selected and frozen his or her interLATA carrier choice. Thus, if a customer froze AT&T as its interLATA long distance carrier, U S WEST automatically extends the freeze on the account by designating itself as the preferred, frozen in-state, intraLATA toll carrier choice. MCI WorldCom, Inc. ("MCIW") has coined this practice as "jamming."

11. U S WEST's automatic freeze extension is a change to a customer's telecommunications service.

12. U S WEST does not obtain prior authorization, approval or consent from customers before it extends the freeze to itself.

13. U S WEST does not obtain written authorization initiated by the customer prior to extending the freeze.

14. Customers of AT&T's interLATA long distance service have had their interLATA carrier freezes automatically extended to U S WEST as the frozen intraLATA toll carrier without their knowledge, consent, permission or written approval.

15. When the customers identified in Paragraph 14 have contacted AT&T requesting that it become their intraLATA carrier of choice, U S WEST refused to honor the notice changes because it had frozen the customer's account.

16. U S WEST representatives demanded further authorization from AT&T before it would honor these customers' intraLATA toll carrier choice.

17. U S WEST's conduct requires actual and potential AT&T intraLATA toll customers to wait longer and incur the hassle of additional, unnecessary procedures before they may exercise their choice.

18. U S WEST's conduct requires AT&T to wait longer, engage in multiple customer contacts and incur additional procedures before U S WEST will implement AT&T's customers' requests.

19. Upon information and belief, U S WEST attempts to justifies its use of automatic PIC extensions. It asserts that if a customer, with an interLATA freeze, did not request a change

for his or her existing intraLATA toll carrier pursuant to certain language[2] contained in the notice referenced in Paragraph 8, above, U S WEST treated this *negative option* as a request to also freeze the intraLATA toll carrier by default as of February 7, 1999.

20. U S WEST's notice, Exhibit A, does not notify customers of U S WEST's automatic PIC freezes practice.

21. U S WEST through its employees concurs with FCC Commissioner, Susan Ness, that "[t]he centerpiece of competition is consumer choice."[3] In fact, its employees have stated further that "[s]lamming deprives the consumer of *free choice* and prevents the long distance market from developing as a freely competitive market should."[4]

22. Nevertheless, U S WEST's automatic freeze extension denies customers' choice.

23. U S WEST's denial of customer choice violates this Commission's Slamming Rules and, its continuing freezes will—on April 27th—violate the FCC's new anti-slamming rules.[5]

24. U S WEST's automatic extension is designed to ensure that it reserves its near monopoly in this market by preventing certain consumers from legitimately and easily converting to another intraLATA toll carrier.

25. Upon information and belief, U S WEST's practice of automatically extending interLATA PIC freezes to include itself as the frozen intraLATA carrier has deprived more than

---

[2] *See* Side Two of U S WEST's Notice attached hereto as Exhibit A, stating: "[i]f you do not elect to make a change, U S WEST will continue to be your provider for all 1+ long-distance calls within your LATA."
[3] FCC Commissioner Susan Ness' Separate Statement (Dec. 17, 1998) in the FCC Order.
[4] Paul McDaniel Direct Testimony, Colorado PUC Docket No. 99F-042T (March 15,1999) at p.15 (emphasis added); Robert L. McGinnis Direct Testimony, Utah PSCU Docket No. 99-049-01 (March 2, 1999) at p.16 (emphasis added).
[5] *See* Footnote 1, *supra*.

200,000 Colorado customers of free choice in violation of the Commission's Slamming Rules. *See* **Exhibit B** attached hereto, which is a new report on U S WEST's PIC freeze extension and the number of Colorado customers impacted.

26. U S WEST's practice of automatically extending interLATA PIC freezes to include itself as the frozen intraLATA carrier violates customers' rights to choose, and it is thereby anti-competitive act of unfair competition in contravention of this Commission's mandate to open the telecommunications market to competition.

27. U S WEST's practice of automatically extending interLATA PIC freezes to include itself as the frozen intraLATA carrier has harmed AT&T.

28. AT&T will cooperate with the Commission in pursuing this complaint, and it will actively participate in any hearing.

Request for Relief

Based upon the foregoing, AT&T requests the Commission issue an order that:

1. Finds U S WEST's practice of automatically extending interLATA PIC freezes to include itself as the frozen intraLATA carrier a violation of the Commission's Slamming Rules; Finds U S WEST's practice of automatically extending as the frozen intraLATA carrier an act of unfair competition; interLATA PIC freezes to include itself ;

2. Demands that U S WEST immediately cease and desist from implementing any further automatic PIC freeze extensions;

3. Demands that U S WEST release or otherwise remove the intraLATA PIC freeze for all customers that have not initiated such a request in writing specifically designating U S WEST as the frozen carrier of choice;

4. Find U S WEST liable for all remedies allowed by 4 CCR 723-2-25.5 in an amount to be determined at hearing; and

5. Allow all other relief the Commission deems appropriate under the circumstances.

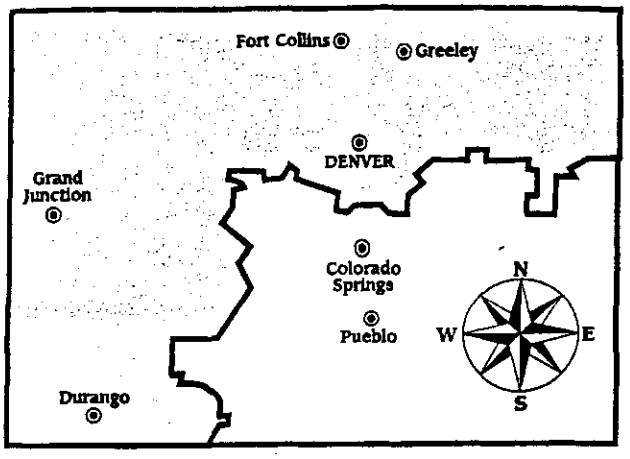
RESPECTFULLY submitted this 12TH, day of April, 1999.

AT&T COMMUNICATIONS OF THE
MOUNTAIN STATES, INC.

By: _____

Maria Arias-Chapleau
Letty S.D. Friesen
1875 Lawrence Street
Suite 1500
Denver, Colorado 80202
303-298-6475
303-298-6301 (facsimile)

EXHIBIT A



☐ LATA Area 1 (Area Codes 303, 720, and 970)

☐ LATA Area 2 (Area Code 719)

CO 1298

NOW YOU HAVE AN ADDITIONAL CHOICE!!

Phone choices restricted

By Roger Fillion
Denver Post Business Writer

March 20 - Chuck Malick wanted to dump US West Inc. and pick a new carrier for long-distance service within Colorado, now that he and other customers can select any company to automatically handle such calls.

But it wasn't easy. A polite US West representative recently told a surprised Malick that a "PIC freeze" had been placed on his account, a device typically used to shield customers against unauthorized changes in telephone service.

Malick once asked US West to freeze his interstate long-distance service so it couldn't be switched, or "slammed," without his approval. But US West unilaterally extended that freeze to Malick's in-state long-distance service - those calls needing a one plus a Colorado area code. That "1-plus" market, long dominated by US West, was opened to rival companies on Feb. 8.

Malick, a consumer advocate who lobbies the Colorado General Assembly on phone issues, did get the freeze lifted and changed carriers. But he and others question whether US West is making it tougher for tens of thousands of customers to drop the Baby Bell, now that it faces new competition from the likes of AT&T Corp., MCI WorldCom Inc. and droves of small companies.

"I just don't know if grandma would go through all this," Malick said of the process for making the change, which might also include arranging for slamming protection from a new carrier. "A lot of people might just hang up and stay with US West."

MCI has filed a complaint over the practice with Colorado regulators. Colorado's consumer watchdog agency fears U S West may be exploiting the PIC freeze process to beat out rivals. A spokeswoman for the Colorado Public Utilities Commission calls the practice "disturbing."

"U S West jumped to the conclusion that customers wanted their (in-state) service frozen. And I don't think that's necessarily so. The market just opened," said Barbara Fernandez, a PUC spokeswoman.

U S West counters that regulators in several states other than Colorado have granted it permission to unilaterally impose the freeze on a customer's in-state long-distance dialing.

A spokesman for the regional Bell also says many customers would be upset if it didn't do so. And he says customers can get the freeze lifted through a phone call to US West, although the company hasn't notified the more than 200,000 affected customers in Colorado.

"We've gotten a clear directive from customers. And if we didn't extend it, we think that many customers would be angry that we didn't extend the freeze and follow through on their wishes," said U S West spokesman David Beigie.

The brouhaha is the latest to hit the market for in-state long-distance service - also called 1-plus dialing because customers dial a one and then an area code within their state.

U S West enjoyed a monopoly on such "local" long-distance calls in Colorado and other states until last month, when Colorado, Montana, Nebraska, Oregon and Washington opened the market to new competitors. Other U S West states, such as New Mexico, Minnesota, Arizona and Utah, opened their markets before 1999.

The opening of the Colorado market has brought with it a nasty fight among U S West, AT&T and MCI, with the Baby Bell and its long-distance rivals accusing each other of foul play.

MCI complained to the Colorado PUC in early March that US West was stifling competition by using the PIC freeze. The freeze allows a customer to make arrangements with a local telephone company, such as US West, to prevent an unauthorized switch in service.

US West, meanwhile, accuses MCI and AT&T of using deceptive marketing practices and of illegally stealing tens of thousands of customers in Colorado and across the West.

Neither side has come out unbruised.

The Colorado Office of Consumer Counsel worries that AT&T's and MCI's marketing practices force state customers to pick one carrier for in-state and interstate calls - even though customers can now pick two. AT&T and MCI say they are complying with existing rules.

But the OCC also is weighing in at the Colorado Public Utilities Commission over MCI's latest complaint against U S West. "If it's true, U S West gets the penalty flag for using a protection against slamming to freeze out competition," said Dian Callaghan, the OCC's director of administration.

"This is all about protecting market share. This is what all these disputes are about," she said of the charges flying back and forth. "And what happens is consumer choice gets trampled."

U S West says about 208,000 of its Colorado customers have PIC freezes. For customers who made such a request before the Feb. 8 opening of the local long-distance market, the company unilaterally applied the freeze to both their local long-distance service and their ordinary interstate service. U S West said it notified other carriers of the move at the start of 1999, but it didn't tell its customers.

US West's Beigie noted that the company has never advocated that

customers put a freeze on their long-distance service. And he stressed that customers are free to lift the freeze by calling US West at 800-244-1111.

"It's a single phone call. It's just that the customer makes the phone call," he said.

Beigie also said regulators in Montana, Arizona, Minnesota, Utah and Washington have given their blessing to U S West's decision. Officials in Montana, Utah and Washington generally agreed with that assessment. An Arizona official couldn't be reached, and a regulator in Minnesota couldn't provide an immediate comment.

In Colorado, the PUC's Fernandez said her agency didn't give U S West authority to impose the freeze.

She called it "disturbing that they would have automatically" put a freeze on a customer's local long-distance service at the same time that that market was opening to competition.

Copyright 1999 The Denver Post. All rights reserved. This material may not be published, broadcast, rewritten or redistributed.

Return to Top
Return to Business
Return to Post Home

CERTIFICATE OF SERVICE

I hereby certify that an original and 1 copy of the Formal Complaint Against U S WEST Communications, Inc. for IntraLATA PIC Freezes ("Jamming") on behalf of AT&T Communications of the Mountain States, Inc., was hand-delivered this 12th day of April 1999, to:

Bruce Smith
Colorado Public Utilities Commission
1580 Logan St., OL2
Denver, CO 80203

and a true and correct copy was hand delivered this 12th day of April 1999, to:

Kris A. Ciccolo
U S WEST Communications, Inc.
1801 California St., Rm. 5100
Denver, CO 80202

Ken Reif
Office of Consumer Counsel
1580 Logan Street, OL6
Denver, CO 80203

Michelle Norcross
Ann Hopfenbeck
Attorney General's Office
1525 Sherman Street, 5th Floor
Denver, CO 80203

Carla Dickinson

CODE OF FEDERAL REGULATIONS
TITLE 47--TELECOMMUNICATION
CHAPTER I--FEDERAL COMMUNICATIONS COMMISSION
SUBCHAPTER B--COMMON CARRIER SERVICES
PART 64--MISCELLANEOUS RULES RELATING TO COMMON CARRIERS
SUBPART K--CHANGING LONG DISTANCE SERVICE

Current through April 18, 2002; 67 FR 19131

§ 64.1190 Preferred carrier freezes.

(a) A preferred carrier freeze (or freeze) prevents a change in a subscriber's preferred carrier selection unless the subscriber gives the carrier from whom the freeze was requested his or her express consent. All local exchange carriers who offer preferred carrier freezes must comply with the provisions of this section.

(b) All local exchange carriers who offer preferred carrier freezes shall offer freezes on a nondiscriminatory basis to all subscribers, regardless of the subscriber's carrier selections.

(c) Preferred carrier freeze procedures, including any solicitation, must clearly distinguish among telecommunications services (e.g., local exchange, intraLATA/intrastate toll, interLATA/interstate toll, and international toll) subject to a preferred carrier freeze. The carrier offering the freeze must obtain separate authorization for each service for which a preferred carrier freeze is requested.

(d) Solicitation and imposition of preferred carrier freezes.

(1) All carrier-provided solicitation and other materials regarding preferred carrier freezes must include:

(i) An explanation, in clear and neutral language, of what a preferred carrier freeze is and what services may be subject to a freeze;

(ii) A description of the specific procedures necessary to lift a preferred carrier freeze; an explanation that these steps are in addition to the Commission's verification rules in § § 64.1120 and 64.1130 for changing a subscriber's preferred carrier selections; and an explanation that the subscriber will be unable to make a change in carrier selection unless he or she lifts the freeze.

(iii) An explanation of any charges associated with the preferred carrier freeze.

(2) No local exchange carrier shall implement a preferred carrier freeze unless the subscriber's request to impose a freeze has first been confirmed in accordance with one of the following procedures:

(i) The local exchange carrier has obtained the subscriber's written or electronically signed authorization in a form that meets the requirements of § 64.1190(d)(3); or

(ii) The local exchange carrier has obtained the subscriber's electronic authorization, placed from the telephone number(s) on which the preferred carrier freeze is to be imposed, to impose a preferred carrier freeze. The electronic authorization should confirm appropriate verification data (e.g., the subscriber's date of birth or social security number) and the information required in § § 64.1190(d)(3)(ii)(A) through (D). Telecommunications carriers electing to confirm preferred carrier freeze orders electronically shall establish one or more toll-free telephone numbers exclusively for that purpose. Calls to the number(s) will connect a subscriber to a voice response unit, or similar mechanism that records the required information regarding the preferred carrier freeze request, including automatically recording the originating automatic numbering identification; or

(iii) An appropriately qualified independent third party has obtained the subscriber's oral authorization to submit the preferred carrier freeze and confirmed the appropriate verification data (e.g., the subscriber's date of birth or social security number) and the information required in § 64.1190(d)(3)(ii)(A) through (D). The independent third party must not be owned, managed, or directly controlled by the carrier or the carrier's marketing agent; must not have any financial incentive to confirm preferred carrier freeze requests for the carrier or the carrier's marketing agent; and must operate in a location physically separate from the carrier or the carrier's marketing agent. The content of the verification must include clear and conspicuous confirmation that the subscriber has authorized a preferred carrier freeze.

(3) Written authorization to impose a preferred carrier freeze. A local exchange carrier may accept a subscriber's written and signed authorization to impose a freeze on his or her preferred carrier selection. Written authorization that does not conform with this section is invalid and may not be

Copr. © West 2002 No Claim to Orig. U.S. Govt. Works

used to impose a preferred carrier freeze.

(i) The written authorization shall comply with § § 64.1130(b), (c), and (h) of the Commission's rules concerning the form and content for letters of agency.

(ii) At a minimum, the written authorization must be printed with a readable type of sufficient size to be clearly legible and must contain clear and unambiguous language that confirms:

(A) The subscriber's billing name and address and the telephone number(s) to be covered by the preferred carrier freeze;

(B) The decision to place a preferred carrier freeze on the telephone number(s) and particular service(s). To the extent that a jurisdiction allows the imposition of preferred carrier freezes on additional preferred carrier selections (e.g., for local exchange, intraLATA/intrastate toll, interLATA/interstate toll service, and international toll), the authorization must contain separate statements regarding the particular selections to be frozen;

(C) That the subscriber understands that she or he will be unable to make a change in carrier selection unless she or he lifts the preferred carrier freeze; and

(D) That the subscriber understands that any preferred carrier freeze may involve a charge to the subscriber.

(e) Procedures for lifting preferred carrier freezes. All local exchange carriers who offer preferred carrier freezes must, at a minimum, offer subscribers the following procedures for lifting a preferred carrier freeze:

(1) A local exchange carrier administering a preferred carrier freeze must accept a subscriber's written or electronically signed authorization stating his or her intent to lift a preferred carrier freeze; and

(2) A local exchange carrier administering a preferred carrier freeze must accept a subscriber's oral authorization stating her or his intent to lift a preferred carrier freeze and must offer a mechanism that allows a submitting carrier to conduct a three-way conference call with the carrier administering the freeze and the subscriber in order to lift a freeze. When engaged in oral authorization to lift a preferred carrier freeze, the carrier administering the freeze shall confirm appropriate verification data (e.g., the subscriber's date of birth or social security number) and the subscriber's intent to lift the particular freeze.

[64 FR 7761, Feb. 16, 1999; 64 FR 9219, Feb. 24, 1999; 66 FR 12893, March 1, 2001; 66 FR 17083, March 29, 2001]

<General Materials (GM) - References, Annotations, or Tables>

47 C. F. R. § 64.1190

47 CFR § 64.1190

END OF DOCUMENT

Copr. © West 2002 No Claim to Orig. U.S. Govt. Works

ORIGINAL

STATE OF NEW YORK
PUBLIC SERVICE COMMISSION

At a session of the Public Service Commission held in the City of Albany on October 24, 2001

COMMISSIONERS PRESENT:

Maureen O. Helmer, Chairman
Thomas J. Dunleavy
James D. Bennett
Leonard A. Weiss
Neal N. Galvin

CASE 00-C-0897 - Complaint of AT&T Communications of New York, Inc., against Bell Atlantic-New York Concerning Bell Atlantic-New York's Management of the Primary Interexchange Carrier (PIC) Program.

CASE 00-C-0188 - Proceeding on Motion of the Commission to Examine the Migration of Customers Between Local Carriers.

ORDER REQUIRING NON-DISCRIMINATORY
PROVISION OF PIC FREEZE STATUS INFORMATION
AND CLARIFYING PRIOR ORDER

(Issued and Effective October 30, 2001)

BY THE COMMISSION:

By Order to Show Cause issued March 23, 2001 in these cases, we directed Verizon New York Inc. [Verizon] to show cause "why it should not immediately make available information on a customer's PIC [Primary Interexchange Carrier] freeze status to all carriers, whether local or interexchange, on the same or equivalent basis that the information is available to Verizon's own customer service or sales personnel."[1] Verizon petitioned for limited reconsideration and clarification on April 23, 2001

[1] Order to Show Cause at 25.

and submitted its response to the Order to Show Cause on May 8, 2001.

Order to Show Cause

Verizon has failed to meet its burden to show that the proposed order directing Verizon to provide the information on a non-discriminatory basis should not issue.

Our Order to Show Cause delineated the methods by which carriers obtain information as to whether a customer has a PIC freeze in place. These include Verizon's Xpress Electronic Access System (XEA), Verizon's operations support systems (OSS), or Verizon's legacy ICRIS system, available only to Verizon's own service representatives.[2] The record of comments submitted by carriers such as AT&T and WorldCom in this proceeding supports a finding that the XEA system is relatively more cumbersome and more expensive than the ICRIS system available only to Verizon. Noting that "competitive equity requires that competitors in the long distance market have access to customer PIC status information under equitable terms and prices,"[3] we held that the inequitable situation should be corrected, absent some compelling reason put forward by Verizon.

However, Verizon's response merely reaffirms that its own customer service personnel, who can sell long distance service on behalf of Verizon's long distance subsidiary, obtain PIC freeze status information via ICRIS, at no charge, whereas carriers such as AT&T pay a substantial charge for the same

[2] Order to Show Cause at 18-19.

[3] Order to Show Cause at 19; Verizon Response at 22.

information via XEA.[4] Verizon reiterates the same justification for this situation - that this is a service for the local customer - that it previously submitted in this case. We cannot accept this rationale as justification for a system that discriminates between long distance carriers, to the benefit of Verizon's own affiliate. This inequitable treatment of carriers violates PSL §91.

We therefore order Verizon to end the practice. We will direct Verizon to file a plan for implementation, within 20 days of the issuance of this order, to set forth the most expeditious means of accomplishing equitable carrier access to PIC freeze status information. Verizon's plan must include immediate steps, to be implemented upon submission of the plan, to ameliorate the inequity as best as possible within this short time frame. It may also include longer-term elements, if necessary, to complete the process of achieving parity of price, terms and conditions of access to PIC freeze status information. Such complete parity must be achieved within 90 days of the issuance of this order.

We recognize that compliance with this directive may present some technical complications and require Verizon to incur some expense. For example, Verizon points out that providing interexchange carriers with access to ICRIS could raise complex issues concerning data base security and would

---

[4] Order to Show Cause at 19; Verizon Response at 22-23. In its response, Verizon is careful to note that "when" its long-distance affiliates use the XEA system to gain information regarding customer PIC status, they pay the same fees per record that an unaffiliated carrier would pay. Verizon Response at 21-22. However, those instances may be rare, since Verizon's long-distance affiliates may also obtain the benefit of such information through the services of employees of the local New York operating company - with access to ICRIS -- under the joint marketing agreement.

require a time-consuming and costly interface development process.[5] Other alternatives, such as making the local OSS interface available to interexchange carriers, eliminating the charge for PIC freeze status queries in the XEA system or assessing charges on Verizon's long-distance affiliates, may prove easier to implement but may not provide terms and conditions of access that are equivalent to Verizon's own access to PIC freeze information. We do not dictate any particular means of implementation here, other than to require that the implementation scheme afford carriers the most nearly equivalent access quickly.

While cost to Verizon of carrying out this order may be relevant in evaluating the implementation plan to be submitted, it cannot be an impediment to compliance. We are not here mandating a new program or directive that Verizon must carry out. Rather, we are making a finding that Verizon's current practices are not in compliance with state law and must be remedied immediately.

Petition for Limited Reconsideration and Clarification

In response to complaints by AT&T and WorldCom that Verizon forces customers to use the VRU, Verizon was reminded that "it should be complying with FCC directives and should not be refusing to offer this alternative,"[6] referring to three-way calls. Verizon requested reconsideration of this directive regarding three-way calls or clarification that Verizon's policy regarding three-way calls is consistent with the directive.[7]

---

[5] Verizon Response at 23.

[6] Order to Show Cause at 11.

[7] Verizon Petition at 6.

Our December 23, 1998 Order[8] directed use of an interactive voice response unit (VRU) for executing and lifting preferred carrier freezes. On the same day, the Federal Communications Commission adopted rules applicable to preferred carrier freezes[9] which required verification by 1) written authorization, 2) independent third party verification, or 3) electronic verification relying on automatic numbering identification (ANI).[10] Because the VRU system differed from the FCC's prescribed electronic verification in minor respects, e.g. VRU relied on customer billing information rather than ANI data, Verizon sought and received a waiver from the FCC.[11] In its petition for the waiver, Verizon stated that operators would be available to help "customers who are unable or unwilling to use the interactive system or who simply want to talk to a person."[12] The FCC relied on this option's availability to customers in its decision.[13]

---

[8] Case 28525, et al. - Order Adopting New York Telephone Company's IntraLATA Freeze Plan with Modifications (Issued December 23, 1998) [VRU Order].

[9] Implementation of the Subscriber Carrier Selection Changes Provisions of the Telecommunications Act of 1996 and Policies and Rules Concerning Unauthorized Changes of Consumers' Long Distance Carriers, Second Report and Order and Further Notice of Proposed Rule Making, 14 FCC Rcd 1508 (1998).

[10] 47 C.F.R. §64.1190.

[11] Implementation of the Subscriber Carrier Selection Changes Provisions of the Telecommunications Act of 1996 - New York Telephone Company d/b/a Bell Atlantic - New York request for Waiver, CC Docket No. 94-129, Order (rel. August 6, 1999)[Waiver Order].

[12] Waiver Petition at 5.

[13] Waiver Order at para.8.

As previously stated in the Order to Show Cause, the VRU is the primary but not exclusive means of placing or lifting PIC freezes for New York State customers. Verizon's written policy directives require that any customer unable or unwilling to use the VRU be switched to an operator. The basis for reminding Verizon of its obligation to offer three-way calling, i.e. connect a customer already on the line with an interexchange carrier to an operator, rather than the VRU, at the customer's request, was our understanding of the history of the VRU, its place within FCC rules regarding preferred carriers freezes, and representations made regarding the availability of an operator. We clarify the Order to Show Cause to reflect this discussion and direct Verizon to adhere to its policy of switching any customer who is unable or unwilling to use the VRU system to an operator.

The Commission orders:

1. Verizon New York Inc. must provide long distance carriers with access to PIC freeze status information that is equivalent to that provided to Verizon's own customer service and sales personnel, consistent with the discussion herein, within 90 days of the issuance of this order, consistent with a plan to be filed as ordered below.

2. Verizon New York Inc must file, within 20 days of the issuance of this order, an implementation plan setting forth the means to achieving such parity of access to PIC freeze status information.

3. Verizon New York Inc. shall serve a copy of its implementation plan on every party listed on the active party list on the Commission's website under both of the above-captioned proceedings.

4. Verizon New York Inc. must take all practicable steps to ameliorate the inequity in access to PIC freeze status information within 20 days of the issuance of this order, consistent with the discussion herein.

5. The Order to Show Cause is clarified to the extent discussed in the body of this order.

6. These proceedings are continued.

By the Commission,

(SIGNED)

JANET HAND DEIXLER
Secretary