

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

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

**COMMENTS OF AT&T CORP. TO SECOND FURTHER NOTICE OF
PROPOSED RULEMAKING**

Pursuant to Section 1.415 of the Commission’s Rules, 47 C.F.R. § 1.415, AT&T Corp. (“AT&T”) submits these comments in response to the Commission’s Third Order on Reconsideration and Second Further Notice of Proposed Rulemaking (“*FNPRM*”) in the above-entitled proceeding.¹

In its *Third Report and Order*² the Commission adopted rules to implement Section 258 of the Communications Act, which prohibits any telecommunications carrier from submitting or executing an unauthorized change in a

¹ *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, Third Order on Reconsideration and Second Further Notice of Proposed Rulemaking, FCC 03-42, released March 17, 2003 (“*FNPRM*”). A summary of the *FNPRM* was published in the Federal Register on April 18, 2003. See 68 Fed. Reg. 19176, correction 68 Fed. Reg. 25313 (May 12, 2003).

² *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, Third Report and Order and Second Order on Reconsideration, FCC 00-255, released August 15, 2000 (“*Third Report and Order*”), reported at 15 FCC Rcd. 15996.

subscriber's selection of a provider of telephone exchange service or telephone toll service (commonly known as "slamming").³ The rules adopted in the *Third Report and Order* were intended to improve the carrier change process for consumers and carriers while making it more difficult for deceitful carriers to perpetrate slams. In this *FNPRM*, the Commission has requested comments on the need for additional minimum requirements for third party verification calls in order to maximize their accuracy and efficiency for consumers, carriers and the Commission.⁴

First, the *FNPRM* (at ¶ 111) seeks comment on whether third party verifiers should state the date during the taped verification process. AT&T supports the Commission's proposal that third party verifiers do so. Indeed, prior to issuance of the *FNPRM*, AT&T had begun to implement a change in its verification process to clearly articulate the date of the third party verification. AT&T believes that for the reasons stated in the *FNPRM*, all carriers should be required to chronicle the date during the taped verification process.

Second, the *FNPRM* (at ¶ 112) seeks comment on whether the third party verifier should explicitly state that, if the customer has additional questions for the carrier's sales representative regarding the carrier change after verification has begun, the verification will be terminated, and further verification proceedings will not be carried out until after the customer has finished speaking with the sales representative. To this end, the Commission seeks comment as to whether such a requirement would lessen

³ 47 U.S.C. § 258(a). Telecommunications Act of 1996, Pub. L. No. 104-104, 110 Stat. 56 (1996).

⁴ *FNPRM*, ¶ 111.

possible customer confusion in situations in which verification is terminated because the customer seeks further discussions with the carrier's sales agent. AT&T believes that making this requirement a part of the third party verification script will serve no useful purpose, and that it may have the effect of increasing customer confusion, rather than reducing it. Not every customer question would warrant termination of the verification process. For example, there is no need to terminate the verification process if the customer simply wishes to know how soon he or she will be receiving service from the newly selected carrier. Such information can be addressed in a subsequent call to the newly selected carrier *after* the PIC change. If the Commission requires the proposed additional statement as part of the third party verification script, even in this instance, the call may be terminated even though the customer was willing to continue with the verification process and re-contact the carrier at a later time.

Moreover, once a customer is sent to a third party verifier and is told that the call will be terminated if there are additional questions for the sales representative, AT&T, as well as other similarly situated carriers, do not have the technical capabilities to return a customer to the same sales representative or even, in some instances, to the same sales center that handled the original call. In situations where a customer requests a clarification or has additional questions about the order, the customer will be disconnected from the third party verifier after being told to re-contact the carrier. In AT&T's experience, many of those customers may not call back out of frustration.

When the sales representative transfers the customer to the third party verifier, upon completion of the sales transaction, the Commission has made it very clear that there may not be any further interaction between the sales representative and the

customer. Absent a waiver, the sales representative is required to “drop-off” the call, and must in all events remain mute for verification to be implemented successfully.⁵ The better approach is to leave it to the individual carriers to have their sales representative inform the customer that the third party verifier is not in a position to answer any product specific questions *before* the sales representative drops off the call.

Third, the *FNPRM* (at ¶ 112) seeks comments on whether the verifier should convey to the customer that the carrier change can be effectuated without any further contact with the customer once the verification has been completed in full. Again, AT&T believes that providing such notice in all verification scripts is unnecessary and would result in increased in customer confusion. In AT&T’s experience, it is a rare exception for a customer to change his or her mind after the completion of a third party verification. However, should this occur, the customer may call the selected carrier to determine whether it is too late to cancel the order and to provide the customer with instructions on restoring service to his or her previous preferred carrier. AT&T suggests that in cases of “buyer’s remorse,” mandating that all carriers provide such information during the sales process would more efficiently address the concern raised in this portion of the *FNPRM*.

Fourth, the *FNPRM* (at ¶ 113) seeks comments on whether verifiers should be required to make clear to a customer that he or she is not verifying an intention to retain existing service, but in fact asking for a carrier change. Once again, mandating the inclusion of that additional statement may increase customer confusion. Contrary to

⁵ *Third Report and Order*, ¶ 38.

the apparent premise of the *FNPRM*'s proposal, verifying a customer's change in service does not necessarily entail a carrier change. As the Commission has correctly recognized, "a customer may not in every instance be aware of the identity of his or her carrier,"⁶ Moreover, the verifier and often times the customer's chosen carrier, may not know the customer's current PIC status. Because the purpose of the third party verification process is to confirm the customer's carrier choice for a particular service, a customer may in be in effect either be verifying a change in his or her carrier choice or confirming an existing carrier selection.

The Commission's salutary objective of protecting consumers from deception by unscrupulous carriers operating under the guise of "bill consolidators" and other schemes in concert with purported third party verifiers can be achieved without the confusion that the *FNPRM*'s proposal would engender. So long as the third party verifier's question is an unambiguous one seeking to confirm whether the customer is selecting his or her designated carrier for the desired service, that disclosure should be sufficient to make it clear to the customer that he or she may either be verifying an intention to retain an existing service or confirm a carrier change.⁷

Fifth, the *FNPRM* (at ¶ 113) also seeks comment as to whether each piece of information that a third party verifier must gather under the Commission's rules should

⁶ See, e.g., *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, Third Order on Reconsideration and Second Further Notice of Proposed Rulemaking, FCC 03-42, released March 17, 2003, ¶ 57.

⁷ For example, AT&T's script asks the customer, "When you are making long distance calls, you would like to use AT&T, is that correct?"

be subject to separate and distinct third party verifier inquiries and subscriber responses. AT&T does not believe the Commission's proposed rule is necessary; the Commission's rules already require that customers separately designate each service (e.g., local, intraLATA and interLATA) selected by them, and provide for third party verification for each service designation.⁸

Finally, the *FNPRM* (at ¶ 113) seeks comment on whether a verifier, when verifying an interLATA service change, should specify that interLATA service encompasses both domestic and international long distance calls, and whether a verifier should define the terms "intraLATA toll" and "interLATA toll" service. With respect to the first of these proposals, to AT&T's knowledge, Hawaii is the *only* state in which the customer may choose separate carriers for domestic and international services. In all other service areas, customers have only one preferred long distance carrier choice for both their domestic and international long distance service. This extremely narrow exception should not control the rule; in virtually all instances, the proposed notification that the customer's domestic carrier selection also covers international calling is superfluous at best, and could be highly misleading if customers understand it to imply that they may separately designate carriers for each of those services.⁹

Requiring verifiers to define the terms "interLATA toll" and "intraLATA

⁸ See 47 C.F.R. § 64.1120(b)(3)(iii)(requiring third party verification of "the types of services involved"). cf. 47 C.F.R. § 64.1130(e)(4)(similarly requiring letters of agency to contain separate statements for each available service type selected).

⁹ In the extremely limited circumstances where a separate choice of domestic and international carrier may be possible, AT&T suggests that carriers be required to adopt their third party verification scripts accordingly. For example, AT&T's current script for Hawaii has separate verification questions for customers who want AT&T as their international, domestic InterLATA and IntraLATA toll carrier choice.

toll” service is also likely to increase rather than reduce customer confusion. Few subscribers are familiar with the term “LATA” and, as the Commission recognizes, for this reason, verifiers typically use other terms that are more meaningful to average consumers.¹⁰ Carriers should be permitted to use their own verbiage as long as it is accurate and not misleading.

CONCLUSION

For the reasons set forth above, the Commission should adopt the proposals of the *FNPRM* with the modifications described in AT&T’s comments.

Respectfully submitted,

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¹⁰ *FNPRM*, ¶ 112.