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**HOUSE COMMITTEE REPORT**

(7)

Date Referred: May 13, 1991

FURTHER REFERRALS:

Date of Committee Action: 5-15-91

The STATE AFFAIRS Committee considered:

HB 289

HOUSE BILL NO. 289

CHANGE OF INTEREXCHANGE CARRIER

"An Act relating to regulation of the process for change in a telephone customer's selection of an interexchange carrier; and providing for an effective date."

RECOMMENDATIONS:

be replaced with CS HB 289  the same title  a new title

have attached amendments(s)

do pass

do not pass

no recommendations

individual recommendations

additional referral to the \_\_\_\_\_ Committee

ADOPTS: \_\_\_\_\_ letter of Intent

ATTACHES NEW FISCAL NOTE(s): (Dept) \_\_\_\_\_

APPROVES PREVIOUS: (Dept/Date) \_\_\_\_\_

fiscal impact \_\_\_\_\_

fiscal note(s) APVC 5-13-91

zero fiscal note \_\_\_\_\_

zero fiscal note(s) \_\_\_\_\_

SIGNING DO PASS	DP	OTHER RECOMMENDATIONS	DNP	NR	AM
<i>Gene Kubina</i>	<i>x</i>	<i>[Signature]</i>		<i>✓</i>	
		<i>[Signature]</i>		<i>✓</i>	
		<i>[Signature]</i>		<i>✓</i>	

*Gene Kubina*  
CHAIRMAN'S SIGNATURE

STATE OF ALASKA  
1991 LEGISLATIVE SESSION

BILL NO. HB289

Revision Date: \_\_\_\_\_ Department Affected: DCED  
 Title: Interexchange Consumer Protection Act of 1991 BRU: APUC  
 Component: \_\_\_\_\_  
 Sponsor: Labor & Comm., State Affairs  
 Requestor: Labor & Comm., State Affairs COMPONENT SERIAL NO. 

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Expenditures/Revenues: (Thousands of Dollars)

OPERATING	FY 92	FY 93	FY 94	FY 95	FY 96	FY 97
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-
CAPITAL	-0-	-0-	-0-	-0-	-0-	-0-
REVENUE	-0-	-0-	-0-	-0-	-0-	-0-

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
TOTAL	-0-	-0-	-0-	-0-	-0-	-0-

POSITIONS:

FULL-TIME	-0-	-0-	-0-	-0-	-0-	-0-
PART-TIME						
TEMPORARY						

Estimate of current year impact: \_\_\_\_\_

ANALYSIS: (Attach a separate page if necessary.)

No Fiscal Impact for FY91

Prepared By: Ray Widoerman Phone: 276-6222  
 Division: Alaska Public Utilities Commission Date: 04/29/91

Approved by Commissioner: \_\_\_\_\_  
 Agency: Department of Commerce & Economic Development Date: \_\_\_\_\_

Distribution (by preparer): Legislative Finance, Legislative Sponsor, Requestor, OMB, & Impacted Agency(ies).

# STATE OF ALASKA

WALTER J. HICKEL, GOVERNOR

ALASKA PUBLIC UTILITIES COMMISSION  
DEPARTMENT OF COMMERCE AND ECONOMIC DEVELOPMENT

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## ALASKA PUBLIC UTILITIES COMMISSION

### Comments on HB 289

April 29, 1991

The Commission endorses the intent of this bill but, for several reasons, does not believe such legislation is currently necessary. To the extent legislation in this area may eventually prove to be necessary, HB 289 in its present form is overexacting and mechanically cumbersome.

The Commission is well aware that competitive pressures in the long distance telephone industry in other states have led to the use of undesirable or fraudulent marketing techniques to increase market share. One aspect of this problem concerns the unauthorized transfer of a customer from one interexchange carrier to another, or "slamming."

The Commission is not aware of any evidence that such practices have been occurring in Alaska. However, in order to control, if not prevent, the prospect of slamming, the Commission has already promulgated a regulation (3 AAC 52.390(d)) which requires written authorization from the consumer before a change in long distance telephone companies can be transacted. Therefore, the Commission has already accomplished the essential purpose of this bill. If, however, the Legislature desires to formalize this policy in law, then it is recommended that any

APUC Comments on HB 289  
April 29, 1991  
Page 1 of 3

Post-It™ brand fax transmittal memo 7671		# of pages • 4
To: <i>Clifford J. Grah</i>	From: <i>Daniel Patrick O'Neil</i>	
Co: <i>House Labor +</i>	Co: <i>APUC</i>	
Dept: <i>Commerce Council</i>	Phone: <i>276-6222</i>	
Fax: <i>465-2444</i>	Fax: <i>276-0160</i>	

legislation should be simple in its approach and augmented, as necessary, by specific Commission regulation. A section-by-section analysis of the bill follows:

### Section-by-Section Analysis

**Section 1:** No comment

**Section 2:** The Commission is unaware of any evidence that slamming has been occurring in Alaska (Finding No. 4). The Legislature need not necessarily act in this regard (Finding No. 6) because the Commission has already promulgated 3 AAC 52.-390(d) which requires written authorization from the consumer before a change can be made in intrastate interexchange carriers.

**Section 3:** This section requires two separate manifestations of a consumer's desire to change his carrier: a change order and a "confirmation." Section 42.05.870(d) states that a long distance carrier may not submit a change order to a local exchange carrier until the long distance carrier has obtained confirmation of the order (p. 2, lines 29-31). A change order is defined in (j) as a customer's instruction to a local telephone company to change his long distance carrier (p. 4, lines 15-18). It is unclear whether the "change order" can be other than in writing. The bill is clear, however, that the second requirement of a confirmation can be satisfied by either a written authorization by the customer or oral verification of the change order by an independent third party within 72 hours of the customer's initial change order. (P. 3, lines 1-5). Section 42.05.870(d) further sets forth very exacting and detailed criteria for valid third-party verification.

The Commission has reservations about whether such compounded authorization is efficient in a competitive marketplace, much less warranted at this time. In particular, since even a change order initiated by a customer must be verified again by the customer, (p. 4, lines 12-14) the bill seems excessive in its approach to ensure consumer consent.

Section 42.05.870(h) requires very broad record retention ("any record") by the long distance and local telephone companies. Additionally, this section requires record inspection, prescription of auditing procedures, and promulgation of regulations by the Commission to police marketing practices. Once instate competition begins and a track record develops, the Commission and the Legislature will be in a better position to determine what, if any, records are necessary to facilitate the investigation of allegations of abuses like slamming.

**Section 4:** It is not clear whether this bill, if it were to pass and become effective this session, would impact equal access dialing decisions which the Commission has already ordered to be implemented on or after the commencement of intrastate interexchange competition in May, 1991.

DEERING'S CALIFORNIA CODES ANNOTATED  
 ADVANCE LEGISLATIVE SERVICE  
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1990 REGULAR SESSION  
 CHAPTER 564 (Assembly Bill No. 4331)

1990 Cal ALS 564; 1990 Cal AB 4331; Stats 1990 ch 564

[Approved by Governor August 27, 1990.] Urgency legislation is effective immediately, Non-urgency legislation will become effective January 1, 1991

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 To view the next section, type .np\* and TRANSMIT.  
 To view a specific section, transmit p\* and the section number. E.g. p\*1  
 -----

DIGEST:

AB 4331, Moore. Telephone corporations: change of long-distance carrier. Under existing law, every telephone subscriber may, at any time, change or her primary long-distance carrier.

This bill would prohibit an interexchange telephone corporation from authorizing a local exchange telephone corporation to make any change in a residential telephone subscriber's presubscribed long-distance carrier unless specified steps have been taken.

SYNOPSIS:

An act to add Section 2889.5 to the Public Utilities Code, relating to public utilities.

TEXT:

The people of the State of California do enact as follows:

[\*1] SECTION 1. Section 2889.5 is added to the Public Utilities Code, to read:

@ 2889.5.

No interexchange telephone corporation, or any person, firm, or corporation representing an interexchange telephone corporation, shall authorize a local exchange telephone company to make any change in a residential telephone subscriber's presubscribed long-distance carrier until all of the following steps have been completed:

(a) If a subscriber is solicited by telephone or by some other method, other than by contact in person, by an interexchange carrier or its independent representative, other than an employee of the interexchange carrier, the carrier or its representative shall do all of the following:

(1) Thoroughly inform the subscriber of the nature and extent of the service being offered.

(2) Specifically establish whether the subscriber intends to make any change in his or her long-distance carrier and explain any charges associated with that change.

(3) Where a representative is acting on behalf of the corporation, a follow-up call by the interexchange carrier, or a representative of the carrier who does not receive a commission for that sale, shall be made to verify the subscriber's intent to change his or her long-distance carrier.

(4) Mail to the subscriber an information package seeking confirmation of

his or her change in the long-distance carrier and describing the new service as soon as possible. The package shall include a confirmation form to be returned to the interexchange carrier or some other reasonable attempt shall be made to obtain written authorization of the subscriber's intent to change long-distance carriers.

(b) If the subscriber seeks to make a change in his or her long-distance carrier in person, the interexchange telephone corporation or its representative, which shall not include the local exchange company, shall do a of the following:

(1) Thoroughly inform the subscriber of the nature and extent of the service being offered.

(2) Specifically establish whether the subscriber intends to make any change in his or her long-distance carrier, and explain any charges associated with that change.

(3) Obtain the subscriber's signature on a document which fully explains the nature and extent of the action. The subscriber by his or her signature on the document shall indicate a full understanding of the relationship being established with the interexchange carrier.

(4) Furnish the subscriber with a copy of the signed document.

(c) If a subscriber notifies the interexchange telephone corporation or the local exchange corporation within 90 days that he or she does not wish to change long-distance carriers, the subscriber shall be switched back to his or her former carrier at the expense of the interexchange carrier that made the change.

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February 15, 1991

SECTION: Vol. 127 No. 4 MARCH OF EVENTS Pg. 12

LENGTH: 119 words

HEADLINE: Anti- slamming Law

BODY:

California's anti- slamming bill, which was signed by outgoing Governor Deukmejian last fall, went into effect in January. " Slamming" is the practice of switching customers' long-distance telecommunications carriers without their knowledge or consent. The Wall Street Journal has noted that 100,000 customers nationwide dealt with this problem in 1989. Most of the complaints have been filed against MCI and Sprint, according to the Federal Communications Commission.

California's new law distinguishes between carrier-initiated and customer-initiated calls. In both instances, any change in service must be explained fully, but written authorization is required only under customer-initiated requests.

(c) A dominant carrier is responsible for providing intrastate interexchange telephone service as the carrier of last resort.

(d) A message telephone service subscriber of an interexchange carrier may not be transferred to another interexchange carrier unless the subscriber signs a written request for the change.

(e) No implicit modification or waiver of any statutory or regulatory requirements is intended by 3 AAC 52.350 --- 3 AAC 52.399 for either dominant or nondominant carriers; absent specific modification or waiver, all statutory and regulatory requirements remain in effect for both dominant and nondominant carriers. (Eff. \_\_/\_\_/\_\_, Register \_\_)

Authority:	AS 42.05.141(b)	AS 42.05.371
	AS 42.05.151(a)	AS 42.05.381
	AS 42.05.221	AS 42.05.401
	AS 42.05.241	AS 42.05.411
	AS 42.05.311	AS 42.05.431
	AS 42.05.321	AS 42.05.451
	AS 42.05.361	AS 42.05.711(d)
		AS 42.05.720(4)(B)

3 AAC 52.399. DEFINITIONS. Unless the context indicates otherwise, in 3 AAC 52.350 -- 3 AAC 52.399

(1) "commission" means the Alaska Public Utilities Commission;

(2) "dominant carrier" means any interexchange carrier determined by the commission to have market power;

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

CC Docket No. 91-64

In the Matter of

American Telephone  
and Telegraph Company

RM 7245

Petition for Rule Making

### NOTICE OF PROPOSED RULE MAKING

Adopted: March 14, 1991; Released: March 25, 1991

By the Commission:

#### I. INTRODUCTION

1. Pursuant to the Modification of Final Judgment (MFJ),<sup>1</sup> the Bell Operating Companies (BOCs) were ordered to provide equal access<sup>2</sup> to their customers. Under the MFJ, the BOCs were permitted to route to American Telephone and Telegraph Company (AT&T) the calls of any customer who, by the time equal access was available, failed to select an interexchange carrier (IXC). In 1985, the Commission concluded that routing such default traffic<sup>3</sup> to AT&T was an unreasonable practice that violated the Communications Act of 1934, 47 U.S.C. § 151 *et seq.* We prescribed a uniform Allocation Plan in order to remedy that violation. The Allocation Plan established a comprehensive set of procedures, designed to ensure that customers were fully informed of the choices available to them, and that the customer's choice of a primary interexchange carrier (PIC) was implemented by the local exchange carrier (LEC).

2. Equal access, now virtually complete, encouraged the growth of vigorous competition in the interexchange market. Millions of customers selected their long distance carrier. Over time, many have decided to change carriers, often to take advantage of discounts and other plans being offered by all of the carriers. At the same time, however, some customers have found they were switched to carriers they did not select. AT&T, upon discovery that some of its customers had been switched to another carrier without the customers' permission, filed the above-captioned petition for Rule Making, asking that the Commission reinstate a written letter of agency (LOA) requirement,<sup>4</sup> a requirement which AT&T had earlier opposed. Simultaneously, AT&T filed a civil suit in Federal District Court against MCI Telecommunications Corporation (MCI), charging MCI with unfair telemarketing practices. Previously, in October 1989, AT&T and MCI had filed legal claims against each other alleging false and deceptive advertising.

3. Forty parties filed comments, letters, and reply comments in response to AT&T's request that this Commission impose an LOA requirement. Many of these parties have suggested alternative approaches to resolving

the problem of unauthorized switches in customers' long distance service.<sup>5</sup> In addition, during the months following the AT&T filing, Congress, state Public Utility Commissions (PUCs), and the news media focused their attention upon customers' complaints that their long distance carrier had been changed without the customers' authorization.

4. On December 11, 1990, AT&T and MCI informed this Commission that they had reached an out-of-court settlement of their suits, agreeing, as part of the settlement, to propose to the Commission safeguards designed to protect consumers against being switched without their permission.<sup>6</sup> AT&T has not withdrawn its petition and it remains pending before us.

5. Equal access procedures designed to increase consumer choice in telecommunications service should not be used to subvert those choices. We tentatively conclude that a modification of carrier selection procedures is necessary to protect the interests of consumers. We also conclude that the safeguards now proposed by AT&T and MCI in their settlement agreement will be more effective and less burdensome than the amendment to the carrier selection rules originally requested by AT&T in its petition for Rule Making. We seek comment on our tentative conclusion that these revised procedures will serve to diminish substantially the problem of unauthorized switching while continuing to encourage carriers to compete for consumers' business. We also invite comment regarding alternative procedures to discourage unauthorized switching, particularly alternatives suggested in comments filed in response to AT&T's petition.

#### II. BACKGROUND

6. The Commission, in its *Allocation Order* and its subsequent *Waiver Order* and *Reconsideration Order*,<sup>7</sup> set forth rules and procedures for implementing equal access and presubscription to an IXC. These Orders established, *inter alia*, the use of a LOA, to be filled out by the customer and kept on file by the IXC as evidence that the customer had selected that IXC as its carrier. *Allocation Order*, Appendix B, 101 FCC 2d at 929.

7. The original allocation plan adopted by the Commission required IXCs to have an LOA on file before submitting a PIC change order to the LEC on behalf of the customer.<sup>8</sup> In the face of vigorous objections from various IXCs, including AT&T, that this requirement would hamper competitive efforts by IXCs to market their services to consumers, particularly through telemarketing efforts, the Commission modified the LOA requirement to allow IXCs to place PIC change orders if they had "instituted steps designed to obtain signed" LOAs. *Waiver Order*, 101 FCC 2d at 942. The Commission next considered the issue in 1987, in the context of a petition filed by the Illinois Citizens Utility Board, requesting revision of the Commission's carrier selection rules. The Commission denied the petition, finding in part that the rules were intended to "facilitate the IXCs' marketing efforts while maintaining the protection embodied in the letter of agency requirement." Illinois CUB Order at 1729.

8. On January 10, 1990, AT&T filed a petition requesting revision of the Commission's carrier selection rules. AT&T proposed returning to the Commission's original rules, allowing an IXC to submit PIC change orders to a LEC on behalf of a customer only when the IXC has an LOA for that customer on file. AT&T alleged that there

has been an increase in the unauthorized switching of customers during the past year, causing inconvenience for customers and creating expense for LECs who must resolve the resultant disputes. AT&T Petition at 7. Comments on AT&T's petition were filed on March 2, 1990; replies were filed March 19, 1990.

#### A. AT&T Petition for Rule Making

9. The AT&T petition contends that the Commission's existing carrier selection rules were designed to facilitate the equal access process during a period in which millions of customers made IXC selections within a relatively short time. It speculates that the LECs' involvement in distributing customer information and soliciting ballots at that time helped keep the initial rate of errors in processing customer selections reasonably low. AT&T Petition at 5. AT&T claims that recently, however, there has been a sharp increase in unauthorized switching. It reports that it conducted a survey of customers whose service was changed from AT&T to other IXCs, which showed that between 10 and 15 percent<sup>9</sup> of the residential customers switched away from AT&T between February and November, 1989, had not authorized the change. *Id.* at 6. These erroneous switches, AT&T charges, have resulted in inconvenience to customers and increased expense to ICs and LECs. *Id.* at 7. The remedy, it contends, is to change the Commission's rule to require that IXCs obtain written customer authorization prior to submitting customer information to the LEC for processing. AT&T emphasizes that the LOA would not be sent to the LEC, but would remain in possession of the IXC. *Id.* at 8.

10. Parties opposing AT&T's petition<sup>10</sup> assert that a change in the existing rules is not warranted by current market conditions, would be anticompetitive in its effect, and would be harmful to consumers. They argue that the current rules represent a reasonable balance between the IXCs' need for marketing flexibility and the need to protect the public against possible abuses. Opponents deny that the rules were appropriate only during the period of equal access conversions and contend that AT&T has failed to show why a more restrictive rule is necessary at this time. See, e.g., Sprint Comments at 2, 5; MCI Comments at 10-14.

11. According to parties opposing AT&T's petition, AT&T would be the primary beneficiary of any rule change that would make it more difficult for consumers to switch carriers. Sprint Comments at 8; Comptel Comments at 5-7; MCI Comments at 15-16. MCI argues that requiring a signed LOA prior to submission of the customer's order would have little effect on AT&T, but would create a major burden for the rest of the interexchange industry, making it more difficult and costly for its competitors to penetrate the 40 percent of the market AT&T now serves. MCI Comments at 16-17.

12. Several commenters remark that the Commission previously considered and rejected AT&T's proposed rule in the *Waiver Order* and the *Illinois CLB Order*. They note that both MCI and AT&T, in their comments on the Illinois Club petition, supported continuation of the existing LOA rules, and opposed adoption of the signed LOA requirement. *Id.* at 6-7; Comptel Comments at 2-3; Sprint Comments at 4-6. MCI observes that AT&T also argued at that time that the inability of a carrier to provide a signed document did not prove that the conversion was unauthorized. AT&T explained that "customers frequently ignore requests for return of letters of agency, delay their

signatures, or simply fail to comprehend the significance of confirmation forms." MCI Comments at 7, quoting AT&T Comments on Petition for Rule Making, filed July 15, 1986, at 4. Sprint observes that AT&T previously argued that if a signed customer statement were required prior to the submission of a PIC change to the LEC, "telemarketing will be virtually foreclosed . . . ; customer convenience will be hindered; and customer selections can be expected to decline." Sprint Comments at 4, quoting AT&T Petition for Clarification at 6.

#### B. Alternative Proposals

13. The National Association of Regulatory Utility Commissioners (NARUC) agrees that a change is needed in the Commission's current equal access conversion procedure, but cautions that any rule change should be sensitive to the needs of consumers and competing toll carriers. In lieu of the prior authorization requested by AT&T, NARUC recommends an alternative rule which would require the IC to supply to a customer requesting a change written verification within three business days of the request. NARUC believes that this system would protect against unauthorized changes while keeping the changeover process simple for consumers. NARUC Reply Comments at 1-3. Under the NARUC proposal, the IXC would be required to send the customer a form which would contain at least the following information concerning the changes requested:

- a. The current primary interexchange carrier's name;
- b. The name of the requested PIC of choice;
- c. A complete listing of any terms, conditions, or charges that will be incurred;
- d. The name of the person ordering the change;
- e. The name, address, and telephone number of the customer and the requested carrier of choice.

*Id.* at 4. NARUC asserts that its proposal would modify the Commission's current rules only slightly, and that by standardizing what is required of an IC before it initiates a changeover, the Commission would make it more difficult for an IXC to switch a customer without authorization.<sup>11</sup>

14. On December 11, 1990, AT&T and MCI jointly advised this Commission that they had settled their civil suits alleging false and deceptive advertising and telemarketing practices.<sup>12</sup> They further informed the Commission that, as part of the settlement agreement, each had agreed to support adoption by the Commission of certain confirmation procedures designed to guard against unauthorized switching.<sup>13</sup>

### III. DISCUSSION

15. We have reviewed AT&T's petition, the comments and letters filed in response to that petition, and the Settlement Proposal submitted by AT&T and MCI. In considering the advisability of imposing a signed LOA requirement, we cannot ignore the earlier arguments made by AT&T, and echoed by other IXCs, against the very rule AT&T, in its petition, seeks to reintroduce.

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3. Forty parties filed comments, letters, and reply comments in response to AT&T's request that this Commission impose an LOA requirement. Many of these parties have suggested alternative approaches to resolving

the problem of unauthorized switches in customers' long distance service.<sup>5</sup> In addition, during the months following the AT&T filing, Congress, state Public Utility Commissions (PUCs), and the news media focused their attention upon customers' complaints that their long distance carrier had been changed without the customers' authorization.

4. On December 11, 1990, AT&T and MCI informed this Commission that they had reached an out-of-court settlement of their suits, agreeing, as part of the settlement, to propose to the Commission safeguards designed to protect consumers against being switched without their permission.<sup>6</sup> AT&T has not withdrawn its petition and it remains pending before us.

5. Equal access procedures designed to increase consumer choice in telecommunications service should not be used to subvert those choices. We tentatively conclude that a modification of carrier selection procedures is necessary to protect the interests of consumers. We also conclude that the safeguards now proposed by AT&T and MCI in their settlement agreement will be more effective and less burdensome than the amendment to the carrier selection rules originally requested by AT&T in its petition for Rule Making. We seek comment on our tentative conclusion that these revised procedures will serve to diminish substantially the problem of unauthorized switching while continuing to encourage carriers to compete for consumers' business. We also invite comment regarding alternative procedures to discourage unauthorized switching, particularly alternatives suggested in comments filed in response to AT&T's petition.

#### II. BACKGROUND

6. The Commission, in its *Allocation Order* and its subsequent *Waiver Order* and *Reconsideration Order*,<sup>7</sup> set forth rules and procedures for implementing equal access and presubscription to an IXC. These Orders established, *inter alia*, the use of a LOA, to be filled out by the customer and kept on file by the IXC as evidence that the customer had selected that IXC as its carrier. *Allocation Order*, Appendix B, 101 FCC 2d at 929.

7. The original allocation plan adopted by the Commission required IXCs to have an LOA on file before submitting a PIC change order to the LEC on behalf of the customer.<sup>8</sup> In the face of vigorous objections from various IXCs, including AT&T, that this requirement would hamper competitive efforts by IXCs to market their services to consumers, particularly through telemarketing efforts, the Commission modified the LOA requirement to allow IXCs to place PIC change orders if they had "instituted steps designed to obtain signed" LOAs. *Waiver Order*, 101 FCC 2d at 942. The Commission next considered the issue in 1987, in the context of a petition filed by the Illinois Citizens Utility Board, requesting revision of the Commission's carrier selection rules. The Commission denied the petition, finding in part that the rules were intended to "facilitate the IXCs' marketing efforts while maintaining the protection embodied in the letter of agency requirement." Illinois CUB Order at 1729.

8. On January 10, 1990, AT&T filed a petition requesting revision of the Commission's carrier selection rules. AT&T proposed returning to the Commission's original rules, allowing an IXC to submit PIC change orders to a LEC on behalf of a customer only when the IXC has an LOA for that customer on file. AT&T alleged that there

The telephone is a convenient and efficient way for customers to make an affirmative choice of a [PIC]. Customers can make a decision and have that decision implemented immediately, as they are accustomed to doing, without the inconvenience of signing and returning any documents and without the delay inherent in that process.

*AT&T Petition for Clarification of Waiver Order at 4.*

However, if the language of paragraph 10 of Appendix B [of the *Allocation Order*] . . . is construed to require a physical handwriting, customers will no longer be able to place orders over the telephone. Telemarketing will be virtually foreclosed under such a restrictive reading of the Order: customer convenience will be hindered; and customer selections can be expected to decline.

*Id.* at 6.

16. The Commission, in originally imposing the LOA requirement, anticipated that the signed LOA would be filed and retrieved by the IXC to resolve disputes. In the contemporary telecommunications marketplace, this seldom happens. Both MCI and AT&T offer similar descriptions of their ordering processes: the change order for the customer is entered onto a computer tape by the telemarketer, and the LOAs, if and when they are received, are shipped to a warehouse. If the customer challenges the change, the IXC frequently finds it more cost effective to pay the applicable change charges to the LEC rather than attempt to retrieve the LOA. It is unclear, therefore, that the mandatory LOA requirement would do anything other than slow down the telemarketing process.

17. We are concerned, however, that a large number of customers appear to have been switched to long distance carriers they did not select.<sup>14</sup> Although, as Sprint suggests, it may be impossible in a competitive market to totally eliminate errors in the ordering process, some revision in the procedures IXCs must follow in submitting change orders for long distance service appears to be necessary. In deciding what action to take, we have weighed the need to prevent fraudulent or abusive sales practices against the possibility that some remedies that have been suggested would unnecessarily impede the competitive process and thereby deny consumers the benefits of this process. We have tentatively concluded that the AT&T and MCI Settlement Proposal represents a reasonable method for resolving the problem of unauthorized switching.

18. The safeguards proposed under the Settlement Agreement would require that at least one of the following actions take place before a consumer's long distance service is switched:

1. The long distance carrier has on hand an authorization card signed by the customer and sent to the long distance carrier;
2. The consumer initiates a call from home to an automated 900 number, and through a sequence of prompts, confirms the choice of long distance carrier; or
3. The consumer's choice of a long distance carrier is verified by an independent firm unaffiliated with any long distance carrier.<sup>15</sup>

The Settlement Proposal acknowledges that customers have the right, of course, to initiate changes in their long distance service by calling their local exchange carrier or long distance carrier directly.<sup>16</sup>

19. The Settlement Proposal also contains a sample script for third party confirmation and describes a "Quality Assurance Program" (QAP). This program would be managed under the direction and authority of an independent auditor selected by each IXC obligated to maintain a QAP, subject to review by this Commission. The full text of the Settlement Proposal, including the confirmation procedures, sample script, and Quality Assurance Program, is provided at Appendix A.

20. Under this proposal, a customer's order for service would be verified in any one of three ways. (Customer-initiated calls would not require verification). This proposal offers greater flexibility to the IXCs than would a mandatory LOA requirement and allows competitors to select a verification procedure which best meets their needs and those of their customers.

21. Therefore, we have tentatively concluded that the letter of agency procedures set forth in Appendix B of the Commission's *Allocation Order*, as modified by the *Waiver Order*, should be revised to require IXCs which seek to submit orders to LECs on behalf of customers to certify to the LEC that they have instituted the procedures set forth at Appendix A. Unlike our current procedures, these proposals specify three specific methods to be used in verifying non customer-initiated orders for changed service. We seek comment on our tentative conclusion that these procedures will serve to reduce to a minimal level the number of unauthorized switches in customers' long distance service.

22. We seek comment regarding whether these procedures will be adequate to protect consumers from unauthorized switches in their long distance service. We invite comment regarding whether this Commission should adopt all of the procedures described in the AT&T and MCI proposal, or whether we should adopt only certain portions of the proposal. We also request comment regarding the effect of revised verification procedures on our current requirement that the IXC pay all change charges associated with changes which the customer disputes if the IXC cannot produce a letter of agency. Further, we seek comment on whether the procedures set forth in Appendix A, or alternative procedures, should apply to customer-owned payphones.

23. We also invite comment regarding whether the various alternatives proposed by NARUC and other parties who have presented their comments in this Rule Making, or any other alternatives, would be preferable to the Settlement Proposal. In particular, we seek comment on the following alternative:

- 1) Within three business days of the customer's request for a change, the IXC sends each new customer an information package containing at least the following information concerning the requested change: a) the name of the customer's current primary long distance carrier; b) the name of the newly requested long distance carrier; c) a description of any terms, conditions, or charges that will be incurred; d) the name of the person ordering the change; e) the name, address, and telephone number of both the customer and the newly requested

long distance carrier: (f) a postpaid postcard which the customer can use to deny, cancel, or confirm a service order.

2) The IXC should not submit an order to the LEC for that customer until 14 days after the form is mailed to the customer.

24. Finally, we invite comment on the cost of implementation of the Settlement Proposal procedures and whether these procedures would impose undue burdens on interexchange carriers. In evaluating alternative approaches, we must weigh the need to prevent abusive sales practices against the possibility that some remedies suggested by the parties would unnecessarily impede the competitive process and thereby deny consumers its benefits. We are particularly concerned lest smaller carriers find the proposed procedures burdensome. We therefore ask for comment on whether the procedures we adopt should apply only to carriers of a particular size. We also request comment regarding whether any of the alternative approaches noted above would be more appropriate for small carriers.

#### IV. PAPERWORK REDUCTION ACT

25. The proposal contained herein has been analyzed with respect to the Paperwork Reduction Act of 1980 and found not to impose new or modified information collection requirements on the public.

#### V. REGULATORY FLEXIBILITY ACT INITIAL ANALYSIS

26. *Reason for action.* The Commission is issuing this Notice of Proposed Rule Making to protect consumers from unauthorized switching of their long distance carriers and to ensure that consumers are fully informed of the costs associated with changes in long distance service.

27. *Objectives.* The objective of this Notice of Proposed Rule Making is to initiate a proceeding to revise the procedures interexchange carriers must follow prior to entering a change order on behalf of a consumer.

28. *Legal basis.* Sections 1, 4(i), 4(j), 201-205, and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. §§ 151, 154(i), 154(j), 201-205, 303(r).

29. *Description, potential impact and number of small entities affected.* The proposed rules will require that interexchange carriers adopt one of three methods for verifying customer orders to change long distance carriers. The rules will also require that customers be provided information about charges and services to allow them to make informed choices. Small entities may feel some economic impact due to the proposed verification requirements.

30. *Reporting, recordkeeping, and other compliance requirements.* The proposed rules impose no reporting requirements and no new recordkeeping requirements. Carriers currently are required to obtain and retain records of customer orders.

31. *Federal rules which overlap, duplicate, or conflict with the Commission's proposal.* None.

32. *Any significant alternatives minimizing impact on small entities and consistent with stated objectives.* The Notice of Proposed Rule Making solicits comments on whether the verification requirements should be adapted to the size of the carrier.

33. *Comments are solicited.* We request written comments on this Initial Regulatory Flexibility Analysis. These comments must be filed in accordance with the same filing deadlines set for comments on the other issues in this Notice of Proposed Rule Making, but they must have a separate and distinct heading designating them as responses to this Regulatory Flexibility Analysis. The Secretary shall send a copy of the Notice to the Chief Counsel for Advocacy of the Small Business Administration in accordance with Section 603(a) of the Regulatory Flexibility Act. See 5 U.S.C. § 601, et seq.

#### VI. EX PARTE REQUIREMENTS

34. For purposes of this non-restricted notice and comment rule making proceeding, members of the public are advised that *ex parte* presentations are permitted except during the Sunshine Agenda period. See generally Section 1.1206(a) of the Commission's Rules, 47 C.F.R. § 1.1206(a). The Sunshine Agenda period is the period of time which commences with the release of the public notice that a matter has been placed on the Sunshine Agenda and terminates when the Commission (1) releases the text of a decision or order in the matter; (2) issues a public notice stating that the matter has been deleted from the Sunshine Agenda; or (3) issues a public notice stating that the matter has been returned to the staff for further consideration, whichever occurs first. Section 1.1202(f) of the Commission's Rules, 47 C.F.R. § 1.1202(f). During the Sunshine Agenda period, no presentations, *ex parte* or otherwise, are permitted unless specifically requested by the Commission or staff for the clarification or adduction of evidence or the resolution of issues in the proceeding. Section 1.1203 of the Commission's Rules, 47 C.F.R. § 1.1203.

35. In general, an *ex parte* presentation is any presentation directed to the merits or outcome of the proceeding made to decision-making personnel which (1) if written, is not served on the parties to the proceeding, or (2), if oral, is made without advance notice to the parties to the proceeding and without opportunity for them to be present. Section 1.202(b) of the Commission's Rules, 47 C.F.R. § 1.202(b). Any person who makes or submits a written *ex parte* presentation shall provide on the same day it is submitted two copies of same under separate cover to the Commission's Secretary for inclusion in the public record. The presentation (as well as any transmittal letter) must clearly indicate on its face the docket number of the particular proceeding to which it relates and the fact that two copies of it have been submitted to the Secretary, and must be labeled or captioned as an *ex parte* presentation.

36. Any person who is making an oral *ex parte* presentation presents data or arguments not already reflected in that person's written comments, memoranda, or other previous filings in that proceeding shall provide on the day of the oral presentation an original and one copy of a written memorandum to the Secretary (with a copy to the Commissioner or staff member involved) which summarizes the data and arguments. The memorandum (as well as any transmittal letter) must clearly indicate on its face

The telephone is a convenient and efficient way for customers to make an affirmative choice of a [PIC]. Customers can make a decision and have that decision implemented immediately, as they are accustomed to doing, without the inconvenience of signing and returning any documents and without the delay inherent in that process.

AT&T Petition for Clarification of *Waiver Order* at 4.

However, if the language of paragraph 10 of Appendix B [of the *Allocation Order*] . . . is construed to require a physical handwriting, customers will no longer be able to place orders over the telephone. Telemarketing will be virtually foreclosed under such a restrictive reading of the Order: customer convenience will be hindered; and customer selections can be expected to decline.

*Id.* at 6.

16. The Commission, in originally imposing the LOA requirement, anticipated that the signed LOA would be filed and retrieved by the IXC to resolve disputes. In the contemporary telecommunications marketplace, this seldom happens. Both MCI and AT&T offer similar descriptions of their ordering processes: the change order for the customer is entered onto a computer tape by the telemarketer, and the LOAs, if and when they are received, are shipped to a warehouse. If the customer challenges the change, the IXC frequently finds it more cost effective to pay the applicable change charges to the LEC rather than attempt to retrieve the LOA. It is unclear, therefore, that the mandatory LOA requirement would do anything other than slow down the telemarketing process.

17. We are concerned, however, that a large number of customers appear to have been switched to long distance carriers they did not select.<sup>14</sup> Although, as Sprint suggests, it may be impossible in a competitive market to totally eliminate errors in the ordering process, some revision in the procedures IXCs must follow in submitting change orders for long distance service appears to be necessary. In deciding what action to take, we have weighed the need to prevent fraudulent or abusive sales practices against the possibility that some remedies that have been suggested would unnecessarily impede the competitive process and thereby deny consumers the benefits of this process. We have tentatively concluded that the AT&T and MCI Settlement Proposal represents a reasonable method for resolving the problem of unauthorized switching.

18. The safeguards proposed under the Settlement Agreement would require that at least one of the following actions take place before a consumer's long distance service is switched:

1. The long distance carrier has on hand an authorization card signed by the customer and sent to the long distance carrier;
2. The consumer initiates a call from home to an automated 800 number, and through a sequence of prompts, confirms the choice of long distance carrier; or
3. The consumer's choice of a long distance carrier is verified by an independent firm unaffiliated with any long distance carrier.<sup>15</sup>

The Settlement Proposal acknowledges that customers have the right, of course, to initiate changes in their long distance service by calling their local exchange carrier or long distance carrier directly.<sup>16</sup>

19. The Settlement Proposal also contains a sample script for third party confirmation and describes a "Quality Assurance Program" (QAP). This program would be managed under the direction and authority of an independent auditor selected by each IXC obligated to maintain a QAP, subject to review by this Commission. The full text of the Settlement Proposal, including the confirmation procedures, sample script, and Quality Assurance Program, is provided at Appendix A.

20. Under this proposal, a customer's order for service would be verified in any one of three ways. (Customer-initiated calls would not require verification). This proposal offers greater flexibility to the ICs than would a mandatory LOA requirement and allows competitors to select a verification procedure which best meets their needs and those of their customers.

21. Therefore, we have tentatively concluded that the letter of agency procedures set forth in Appendix B of the Commission's *Allocation Order*, as modified by the *Waiver Order*, should be revised to require IXCs which seek to submit orders to LECs on behalf of customers to certify to the LEC that they have instituted the procedures set forth at Appendix A. Unlike our current procedures, these proposals specify three specific methods to be used in verifying non customer-initiated orders for changed service. We seek comment on our tentative conclusion that these procedures will serve to reduce to a minimal level the number of unauthorized switches in customers' long distance service.

22. We seek comment regarding whether these procedures will be adequate to protect consumers from unauthorized switches in their long distance service. We invite comment regarding whether this Commission should adopt all of the procedures described in the AT&T and MCI proposal, or whether we should adopt only certain portions of the proposal. We also request comment regarding the effect of revised verification procedures on our current requirement that the IXC pay all change charges associated with changes which the customer disputes if the IXC cannot produce a letter of agency. Further, we seek comment on whether the procedures set forth in Appendix A, or alternative procedures, should apply to customer-owned payphones.

23. We also invite comment regarding whether the various alternatives proposed by NARUC and other parties who have presented their comments in this Rule Making, or any other alternatives, would be preferable to the Settlement Proposal. In particular, we seek comment on the following alternative:

- 1) Within three business days of the customer's request for a change, the IXC sends each new customer an information package containing at least the following information concerning the requested change: a) the name of the customer's current primary long distance carrier; b) the name of the newly requested long distance carrier; c) a description of any terms, conditions, or charges that will be incurred; d) the name of the person ordering the change; e) the name, address, and telephone number of both the customer and the newly requested

the docket number of the particular proceeding and the fact that an original and one copy of it have been submitted to the Secretary, and must be labeled or captioned as an *ex parte* presentation. Section 1.1206 of the Commission's Rules, 47 C.F.R. § 1.1206.

37. All relevant and timely comments and reply comments will be considered by this Commission. In reaching our decision, this Commission may take into account information and ideas not contained in the comments, provided that such information or a writing containing the nature and source of such information is placed in the public file, and provided that the fact of this Commission's reliance on such information is noted in the Order.

#### VII. ORDERING CLAUSES

38. Accordingly, IT IS ORDERED that NOTICE IS HEREBY GIVEN of the proposed regulatory changes described above, and that COMMENT IS SOUGHT on these proposals.

39. IT IS FURTHER ORDERED that pursuant to applicable procedures set forth in Sections 1.415 and 1.419 of the Commission's Rules, 47 U.S.C §§ 1.415, 1.419, comments SHALL BE FILED with the Secretary, Federal Communications Commission, Washington, D.C. 20554 on or before May 1, 1991. Reply comments should be filed no later than May 31, 1991. To file formally in this proceeding, participants must file an original and four copies of all comments, reply comments, and supporting comments. If participants want each Commissioner to receive a personal copy of their comments, an original plus nine copies must be filed. In addition, parties should file two copies of any such pleadings with the Tariff Division, Common Carrier Bureau, Room 518, 1919 M Street N.W., Washington, D.C. Parties should also file one copy of any documents filed in this docket with this Commission's copy contractor, Downtown Copy Center, room 246, 1919 M Street, N.W., Washington, D.C. 20554.

40. IT IS FURTHER ORDERED that the Secretary shall mail a copy of this Notice of Proposed Rule Making to the Chief Counsel for Advocacy of the Small Business Administration.

#### FEDERAL COMMUNICATIONS COMMISSION

Donna R. Searcy  
Secretary

#### APPENDIX A

#### AT&T AND MCI SETTLEMENT AGREEMENT PROPOSAL

#### CONFIRMATION PROCEDURES

**PIC Changes.** No interexchange carrier may submit orders to change a customer's primary interexchange carrier (PIC) except in accordance with the provisions of this section.

#### A. Definitions

- "customer means a person with two or fewer residential telephone lines:
- "customer-initiated PIC change" means an order to change a customer's PIC that is generated as a result of a communication to an IC or LEC originated by a customer:
- "independent third party" means an appropriately qualified (*i.e.*, capable of performing large scale verification processes as specified herein) person retained by an IXC to perform verification or auditing functions described in this section and in which the IXC has no ownership interest and which performs no telemarketing, direct mail, or other sales solicitation functions for the IXC:
- "IXC" means an interexchange carrier or a person (other than an independent third party) acting on behalf of an interexchange carrier:

**B. Mandatory Disclosures.** Any IXC telemarketing solicitations seeking to change a customer's PIC must include the following disclosures:

- 1) identification of the IXC placing the call;
- 2) the purpose of the call is to solicit a change of the customer's PIC;
- 3) the customer's PIC may not be changed unless and until the sale is confirmed, together with a description of the confirmation process to be used;
- 4) a description of any charge for processing the PIC change that may be imposed by the customer's LEC; and
- 5) the IXC will send the customer a form that meets the requirements of subsection (c)(1) that authorizes the carrier to submit the PIC change, with a request that the customer sign and return the form to the IXC.

**C. Confirmation.** No IXC shall submit a PIC change order (other than a customer-initiated PIC change) to a LEC unless and until the order has first been confirmed in accordance with the following procedures:

- 1) the IXC has obtained the customer's written authorization to submit the order that explains what occurs when a PIC is changed and confirms:
  - a) the customer's billing name and address and each telephone number to be covered by the PIC change order.
  - b) the decision to change the PIC to the IXC, and
  - c) the customer's understanding of the existence of the PIC change fee; or
- 2) the IXC has obtained the customer's electronic authorization, placed from the telephone number(s) on which the PIC is to be changed, to submit the order that confirms the information described in subsection (1) above to confirm the authorization.

IXCs electing to confirm sales electronically shall establish one or more toll-free telephone numbers exclusively for that purpose. Calls to the number(s) will connect a customer to a voice response unit, or similar mechanism, that records the required information regarding the PIC change, including automatically recording the originating ANI; or

3) an appropriately qualified and independent third party operating in a location physically separate from the telemarketing representative has obtained the customer's oral authorization to submit the PIC change order that confirms and includes appropriate verification data (e.g., the customer's date of birth or social security number). The independent third party will use a script substantially similar to the form attached. The IXC must retain the independent third party's services pursuant to a written contract that will be available for inspection by the FCC and that does not provide compensation based upon the percentage of sales confirmed.

4) Regardless of which of the above confirmation procedures is used, the IXC must retain all records and data pertaining to the customer's authorization for a period of 12 months after submission of the PIC change order.

**D. Auditing Requirements.** IXCs shall implement auditing procedures to ensure that the disclosure and confirmation provisions of this section are followed. Such audits will include an analysis to confirm that the IXC is submitting only PICs (other than customer-initiated PIC changes) that have been confirmed in one of the ways specified above. Audits must be performed by a qualified third party at least once every month. If any such audit reveals (1) non-compliance in any material respect with the confirmation requirements of Section C, or (2) a rate of non-compliance in excess of two percent (at a 99 percent level of confidence plus or minus 1 percent) plus the upper bound of the confidence interval, the IXC shall immediately implement corrective measures specified by the auditor, and submit the auditor's report to the FCC.

#### QUALITY ASSURANCE PRINCIPLES

**A. Quality Assurance Program.** The Quality Assurance Program ("QAP") to be adopted by the FCC is intended to ensure that interexchange carriers ("IXCs") which make more than outbound telemarketing calls per year are not making blatantly false and misleading claims (as defined in Section D below) in their telemarketing sales practices. The QAP is to be managed under the direction and authority of an independent auditor ("QAP Director") selected by each IXC obligated to maintain a QAP, subject to review by the FCC. The QAP Director shall have full and complete access to all items subject to review.

**B. QAP Director's Responsibilities.** The QAP Director shall conduct a quality assurance audit quarterly (1) to determine whether an IXC is making blatantly false and misleading claims ("blatant falsehoods") in its telemarketing practices, and (2) where such blatant falsehoods have been found to occur, to certify when the problem that caused the blatant falsehoods has been corrected. The QAP Director is only to evaluate and report

on cases of blatant falsehoods and is expressly prohibited from disclosing to any IXC the marketing claims being made by any other IXC.

**C. Items Subject To Review.** Any IXC subject to the QAP shall provide the QAP Director with any and all information, reports, methods and practices, guidelines, training materials and cooperative assistance requested by the QAP Director for the purpose of making an independent evaluation of (1) scripts and (2) the conduct of telemarketing by the IXC. The QAP Director may examine all management controls, including, but not limited to the following:

1. remote monitoring with random selection of monitored representatives;
2. on-site monitoring; and
3. recordkeeping and retention.

**D. Blatant Falsehoods.** Blatant falsehoods are representations that seriously and substantially misstate the nature, characteristics, qualities and geographic boundaries of a competing IXC. Examples include:

1. "[IXC] is going out of business."
2. "[IXC #1] is, by its own choice, no longer providing your services and [IXC #2] has instead been designated as your new long distance carrier."
3. "[IXC #1] and [IXC #2] are part of the same company and/or [IXC #1] has merged with [IXC #2] (or any other similar misrepresentation of a corporate relationship)."
4. "You have no choice about your long distance service" and must change to [IXC]."
5. "Your long distance company or your LEC have authorized the switch to [IXC]."
6. "[IXC] and your local phone company are one and the same."

**E. Corrective Measures.** On a quarterly basis, the QAP Director will monitor a sufficient number of telephone calls in progress to achieve a 99 percent (plus or minus 1 percent) level of confidence that the percentage of calls in which blatant falsehoods are occurring does not exceed 2 percent. If that level is exceeded, the IXC must implement corrective measures immediately. The QAP Director shall then commence monitoring of the IXC on a monthly basis until the IXC reduces the percentage of blatant falsehoods below 2 percent. A report on the non-compliance shall be submitted to the FCC until the corrective measures are effective.

**F. Costs.** Costs of each IXC's QAP will be borne by the IXC subject to the QAP.

#### SAMPLE SCRIPT FOR THIRD PARTY CONFIRMATION

Hello, my name is \_\_\_\_\_ from \_\_\_\_\_, an independent verification company. I'm calling to confirm your order for [IXC] long distance service.

the docket number of the particular proceeding and the fact that an original and one copy of it have been submitted to the Secretary, and must be labeled or captioned as an *ex parte* presentation. Section 1.1206 of the Commission's Rules, 47 C.F.R. § 1.1206.

37. All relevant and timely comments and reply comments will be considered by this Commission. In reaching our decision, this Commission may take into account information and ideas not contained in the comments, provided that such information or a writing containing the nature and source of such information is placed in the public file, and provided that the fact of this Commission's reliance on such information is noted in the Order.

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#### FEDERAL COMMUNICATIONS COMMISSION

Donna R. Searcy  
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#### APPENDIX A

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- "independent third party" means an appropriately qualified (i.e., capable of performing large scale verification processes as specified herein) person retained by an IXC to perform verification or auditing functions described in this section and in which the IXC has no ownership interest and which performs no telemarketing, direct mail, or other sales solicitation functions for the IXC;
- "IXC" means an interexchange carrier or a person (other than an independent third party) acting on behalf of an interexchange carrier;

**B. Mandatory Disclosures.** Any IXC telemarketing solicitations seeking to change a customer's PIC must include the following disclosures:

- 1) identification of the IXC placing the call;
- 2) the purpose of the call is to solicit a change of the customer's PIC;
- 3) the customer's PIC may not be changed unless and until the sale is confirmed, together with a description of the confirmation process to be used;
- 4) a description of any charge for processing the PIC change that may be imposed by the customer's LEC, and
- 5) the IXC will send the customer a form that meets the requirements of subsection (c)(1) that authorizes the carrier to submit the PIC change, with a request that the customer sign and return the form to the IXC.

**C. Confirmation.** No IXC shall submit a PIC change order (other than a customer-initiated PIC change) to a LEC unless and until the order has first been confirmed in accordance with the following procedures:

- 1) the IXC has obtained the customer's written authorization to submit the order that explains what occurs when a PIC is changed and confirms:
  - a) the customer's billing name and address and each telephone number to be covered by the PIC change order,
  - b) the decision to change the PIC to the IXC, and
  - c) the customer's understanding of the existence of the PIC change fee; or
- 2) the IXC has obtained the customer's electronic authorization, placed from the telephone number(s) on which the PIC is to be changed, to submit the order that confirms the information described in subsection (1) above to confirm the authorization.

Q1. I'd like to confirm your name, address and telephone number(s). IF AVAILABLE ON SCREEN, READ BACK. Is that correct? TAKE ANY CORRECTIONS. IF NOT ON SCREEN, ASK FOR EACH ITEM AND RECORD.

Q1A. Did you or another person in your household recently receive a call asking you to select [IXC] as your long distance company?

Q2. I'd like to confirm that you have decided to select [IXC] to carry long distance calls from this (these) telephoned(s). Is that correct?

Q3. I'd like to confirm that you are an adult resident of this household. Is that correct? IF QUESTIONED BY CUSTOMER, MAY STATE THAT PURPOSE IS TO DETERMINE IF YOU ARE A DECISION MAKER FOR LONG DISTANCE SERVICE FOR THE HOUSEHOLD.

Q4. I'd like to confirm that you were advised that the local telephone company may charge a fee for switching to [IC]. Is that correct? IF CUSTOMER ASKS HOW MUCH, VERIFIER MAY STATE AMOUNT FROM LEC TARIFFS.

Q5. Finally, to show that I've spoken to you, please give me the last four digits of your Social Security Number. RECORD INFORMATION: IF CUSTOMER REFUSES, TRY DATE OF BIRTH OR MOTHER'S MAIDEN NAME.

I will now process the order. Thank you and goodbye.

IF RESPONSE IS NEGATIVE ON ANY ITEM, INFORM CUSTOMER THAT YOU CANNOT PROCESS THE ORDER AND THAT THE CUSTOMER MAY SPEAK DIRECTLY WITH IXC OR MAY CALL THE LOCAL PHONE COMPANY TO ORDER THE SWITCH IN SERVICE TO THE IXC. ANY QUESTIONS (EXCEPT THOSE IN THE Q AND A) ABOUT THE LONG DISTANCE SERVICES OR RATES ARE TO BE REFERRED BACK TO THE IXC.

Would you like me to return you to an IXC representative? IF YES, THE CALL CAN GO BACK TO THE IXC REPRESENTATIVE.

#### APPENDIX B

Pleadings Filed in Rule Making No. 7245

Petition for Rule Making, filed January 10, 1991 by American Telephone and Telegraph Company

Comments, filed March 2, 1990

Ameritech Operating Companies (Ameritech)  
Competitive Telecommunications Association (CompTel)

General Communications, Inc. (GCI)  
MCI Telecommunications Corporation (MCI)  
Pennsylvania Office of Consumer Advocacy and the National Association of State Utility Consumer Advocates (PAOCA/NASUCA)  
Southwestern Bell Telephone Company (Southwestern Bell)  
US Sprint Communications Company Limited Partnership (Sprint)

Replies, filed March 19, 1990

AT&T  
America's Carriers Telecommunications Association (ACTA)  
MCI  
National Association of Regulatory Utility Commissioners (NARUC)  
Nebraska Public Service Commission (Nebraska PSC)  
Operator Service Providers of America (OSPA)  
Southwestern Bell  
Sprint  
United States Telephone Association (USTA)

#### Letters

California Public Utilities Commission  
CFW Telephone Company  
Citizens Telephone Cooperative  
City of Charleston, West Virginia  
Consumer Action  
State of Colorado  
Conference of Consumer Organizations  
Dubois Telephone Exchange, Inc.  
Illinois Commerce Commission  
Iowa Network Services, Inc.  
Iowa State Utilities Board  
Lincoln Telephone Co.  
Louisiana Consumers League  
Maryland Public Service Commission  
Minnesota Department of Public Service  
Minnesota Public Utilities Commission  
Office of Minnesota Attorney General  
Montana Public Service Commission  
Nebraska Public Service Commission  
Ohio Public Service Commission  
Oklahoma Corporation Commission  
Roosevelt County Rural Telephone Cooperative, Inc.  
South Carolina Public Service Commission  
United Refining Co. of Pennsylvania

Virginia State Corporation Commission  
 West Virginia Public Service Commission  
 Western New Mexico Telephone Co., Inc.  
 Wisconsin Public Service Commission (Wisconsin  
 PSC)

### FOOTNOTES

<sup>1</sup> See *United States v. American Tel. & Tel.*, 552 F. Supp. 131 (D.D.C. 1982) *aff'd sub nom. Maryland v. United States*, 461 U.S. 1001 (1983).

<sup>2</sup> Equal access is that which is equal in type, quality, and price to access to local exchange facilities provided to AT&T and its affiliates. *Id.* at 227.

<sup>3</sup> Default traffic refers to the interexchange telephone calls of any customer who failed to make a selection of an interexchange carrier.

<sup>4</sup> A letter of agency is a document, signed by the customer, which states that a particular carrier has been selected as that customer's long distance carrier. In its petition, AT&T seeks a requirement that an IXC have a customer's LOA on file before submitting an order to the local exchange carrier to switch that customer to the IXC's service.

<sup>5</sup> AT&T describes the unauthorized switching of customers as "slamming." MCI describes such switches as SWOPs (switched without permission).

<sup>6</sup> See Letter from James L. Lewis, MCI Telecommunications Corporation, to Secretary, Federal Communications Commission, Dec. 12, 1990 (MCI Letter).

<sup>7</sup> Investigation of Access and Divestiture Related Tariffs, CC Docket No. 83-1145, Phase I, 101 FCC 2d 411 (1985) (*Allocation Orders*), *recon. denied*, 102 FCC 2d 513 (1985) (*Reconsideration Orders*); Investigation of Access and Divestiture Related Tariffs, CC Docket No. 83-1145, Phase I, 101 FCC 2d 435 (1985) (*Waiver Orders*). See also *Illinois Citizens Utility Board Petition for Rule Making*, 2 FCC Rcd 1726 (1987) (*Illinois CLB Order*).

<sup>8</sup> Customers may also order service directly from the LEC.

<sup>9</sup> AT&T later refined this figure, alleging that 13.4 percent of the end users switched away from AT&T are unauthorized PIC changes. AT&T Reply at App. I.

<sup>10</sup> A list of parties filing pleadings in this matter appears at Appendix B.

<sup>11</sup> Alternative approaches to the problem of unauthorized switching were also suggested by MCI, Sprint, Ameritech, Bell Atlantic, and Comtel.

<sup>12</sup> See MCI Letter, n.4, *supra*.

<sup>13</sup> On February 12, 1991, MCI and AT&T formally filed a joint request that the Commission adopt the proposal contained in Attachment A of this NPRM.

<sup>14</sup> In recognition of the problems consumers have encountered, the Commission issued a Public Notice on November 2, 1990, informing consumers of their rights and describing steps they might take to protect themselves against unauthorized switches.

<sup>15</sup> At the present time, AT&T's own supervisors verify telemarketing orders for long distance service; MCI reports that it has initiated a system of third party verification, which is not yet complete.

<sup>16</sup> See Settlement Proposal, Confirmation Procedures, at Section C.

Q1. I'd like to confirm your name, address and telephone number(s). IF AVAILABLE ON SCREEN, READ BACK. Is that correct? TAKE ANY CORRECTIONS, IF NOT ON SCREEN, ASK FOR EACH ITEM AND RECORD.

Q1A. Did you or another person in your household recently receive a call asking you to select [IXC] as your long distance company?

Q2. I'd like to confirm that you have decided to select [IXC] to carry long distance calls from this (these) telephone(s). Is that correct?

Q3. I'd like to confirm that you are an adult resident of this household. Is that correct? IF QUESTIONED BY CUSTOMER, MAY STATE THAT PURPOSE IS TO DETERMINE IF YOU ARE A DECISION MAKER FOR LONG DISTANCE SERVICE FOR THE HOUSEHOLD.

Q4. I'd like to confirm that you were advised that the local telephone company may charge a fee for switching to [IC]. Is that correct? IF CUSTOMER ASKS HOW MUCH, VERIFIER MAY STATE AMOUNT FROM LEC TARIFFS.

Q5. Finally, to show that I've spoken to you, please give me the last four digits of your Social Security Number. RECORD INFORMATION: IF CUSTOMER REFUSES, TRY DATE OF BIRTH OR MOTHER'S MAIDEN NAME.

I will now process the order. Thank you and goodbye.

IF RESPONSE IS NEGATIVE ON ANY ITEM, INFORM CUSTOMER THAT YOU CANNOT PROCESS THE ORDER AND THAT THE CUSTOMER MAY SPEAK DIRECTLY WITH IXC OR MAY CALL THE LOCAL PHONE COMPANY TO ORDER THE SWITCH IN SERVICE TO THE IXC. ANY QUESTIONS (EXCEPT THOSE IN THE Q AND A) ABOUT THE LONG DISTANCE SERVICES OR RATES ARE TO BE REFERRED BACK TO THE IXC.

Would you like me to return you to an IXC representative? IF YES, THE CALL CAN GO BACK TO THE IXC REPRESENTATIVE.

#### APPENDIX B

Pleadings Filed in Rule Making No. 7245

Petition for Rule Making, filed January 10, 1991 by American Telephone and Telegraph Company

Comments, filed March 2, 1990

Ameritech Operating Companies (Ameritech)  
Competitive Telecommunications Association (CompTel)

General Communications, Inc. (GCI)  
MCI Telecommunications Corporation (MCI)  
Pennsylvania Office of Consumer Advocacy and the National Association of State Utility Consumer Advocates (PAOCANASUCA)  
Southwestern Bell Telephone Company (Southwestern Bell)  
US Sprint Communications Company Limited Partnership (Sprint)

Replies, filed March 19, 1990

AT&T  
America's Carriers Telecommunications Association (ACTA)  
MCI  
National Association of Regulatory Utility Commissioners (NARUC)  
Nebraska Public Service Commission (Nebraska PSC)  
Operator Service Providers of America (OSPA)  
Southwestern Bell  
Sprint  
United States Telephone Association (USTA)

#### Letters

California Public Utilities Commission  
CFW Telephone Company  
Citizens Telephone Cooperative  
City of Charleston, West Virginia  
Consumer Action  
State of Colorado  
Conference of Consumer Organizations  
Duhois Telephone Exchange, Inc.  
Illinois Commerce Commission  
Iowa Network Services, Inc.  
Iowa State Utilities Board  
Lincoln Telephone Co.  
Louisiana Consumers League  
Maryland Public Service Commission  
Minnesota Department of Public Service  
Minnesota Public Utilities Commission  
Office of Minnesota Attorney General  
Montana Public Service Commission  
Nebraska Public Service Commission  
Ohio Public Service Commission  
Oklahoma Corporation Commission  
Roosevelt County Rural Telephone Cooperative, Inc.  
South Carolina Public Service Commission  
United Refining Co. of Pennsylvania

# ALASCOM'S BRIEFING PAPER ON HB 289

## I. INTRODUCTION

The purpose of competition is to encourage the most efficient allocation of resources, the lowest prices and the highest quality of consumer products. Competition promotes the protection of consumer interests. Sometimes, however, the pressures of competition within a particular industry to win customers and thereby increase revenues, may lead to the use of undesirable, deceptive and fraudulent marketing techniques which are not in the best interest of the consumer.

The long distance telephone industry, once considered virtually immune from the effects of recession has shown a recent decline in growth from the annual 12% per year in the late 1980's to an estimated 7% per year in 1990. Competition for market share in this \$50 billion-dollar-a-year industry has become one of the fiercest fought battles in any American business arena. With the expected advent of competition in Alaska in mid-year 1991, it is appropriate for the Legislature to examine the potential for undesirable marketing practices in the state.

## II. THE PROBLEM

Competitive pressures in the long distance industry have led to the use of deceptive sales and telemarketing methods as each long distance carrier strives to increase its revenues by increasing their market share.

Telemarketing is used extensively in the long distance industry and the industry's two largest carriers (AT&T and MCI) estimate that they make a combined 12 million calls a month to consumers. Telemarketing firms are used to solicit new business and there is some concern that these firms are being paid on a commission basis directly related to the number of new customers they develop. This may result in "slamming", the unauthorized transfer of a customer from one long distance carrier to another.

Slamming is blamed on overzealous sales people and usually occurs after a high pressure sales pitch from another long distance carrier over the telephone. Even if the consumer does not wish to change his long distance carrier he or she may find that the change has been made without his or her knowledge or consent.

During a recent Congressional subcommittee hearing to examine the issue of slamming, AT&T said it received 90,000 complaints of slamming from customers during a six month period in

1990. Bell Atlantic, a local telephone company which is responsible for making the actual change from one long distance carrier to another, received 18,000 slamming complaints in 1988, 37,000 complaints in 1989, and estimated it received over 80,000 slamming complaints in 1990.

Concern with the problem of slamming has recently caught the attention of Congress, the Federal Communications Commission and the California State Legislature. Federal legislation to regulate changes in consumers' selection of long distance carriers has been introduced in the House. The FCC has issued a notice of proposed rulemaking that would require long distance carriers to secure written authorization, electronic authorization, or third-party oral verification from consumers before implementing a change in the selection of a long distance carrier. Last year, the California legislature passed its own anti-slamming legislation, which went into effect in January.

### III. THE ISSUES

The current FCC rules governing the transfer of long distance service were modified following the 1984 breakup of the Bell Telephone System to benefit the new alternative carriers emerging after the breakup. In an effort to help dissolve the AT&T monopoly, federal regulators decided that new carriers would need only verbal permission to sign up prospective customers.

Once verbal permission is granted for the change by the consumer, the long distance provider informs the local phone company which makes the switch. Although Federal rules require that long distance companies follow up by sending customers forms to be signed and returned, it is estimated that 70% of the forms are not returned. Still, the switch can be legally made.

Long distance customers are particularly vulnerable to potential fraudulent and deceptive sales and marketing practices by representatives of long distance carriers. Telemarketers typically prey on elderly and infirm consumers and those with language disabilities.

As a result of slamming practices the consumer is not only deprived of knowledgeable decision making but is further burdened and inconvenienced with having to ensure that his long distance service is switched back to the carrier of his preference.

Local telephone companies have typically been made to bear the burden of switching back the customer who has been slammed. This constant churn increases the overall costs of telecommunications services and reduces industry efficiency.

#### IV. THE PROPOSED LEGISLATION

Because slamming is fostered by loose regulations and the fierce competition among long distance carriers, it is necessary to protect long distance consumers by adopting appropriate rules and prescribing procedures for switching from one long distance carrier to another.

This proposed legislation is designed to protect consumers from being switched to other long distance companies without their knowledge or consent. It prescribes specific procedures and a verification process for authorized changes in a consumers selection of a long distance carrier. The existing Alaska Public Utilities Commission regulations recognize this need, but provide only a one-sentence requirement concerning the need for a written authorization for change of service. Neither the need for informed consent, nor the need for verification is addressed.

Customer solicitation must be on a fully disclosed basis. Certain relevant disclosures are required to be made. The request for a change in a consumer's selection of a long distance carrier must be verified, after solicitation and before execution, by an independent third party. The customer is given a cooling-off period, similar to laws governing door-to-door solicitation, during which he may reflect on and/or cancel any change in a long distance carrier.

The independent third party confirming the change in the selection of a consumer's long distance carrier is required to make specific disclosures to the consumer to further increase consumer awareness and provide a knowledgeable basis for decision making. A written record of all solicitations and confirmations are required to be made and maintained by each long distance carrier and made available for Commission inspection.

#### V. BENEFITS

The protection of consumers against slamming while preserving competition in the long distance industry would be the ultimate benefit of this legislation.

The consumer would receive relevant, accurate information upon which to make telecommunication services decisions. All competitors would be required to adhere to the same standards, discouraging high pressure tactics for soliciting customers. Consumers are spared the burden and inconvenience of the switching of long distance carriers without their knowledge and consent and local telephone companies can avoid the costs and inefficiencies involved with churning practices employed by long distance carriers.

The procedures and verifications proposed should substantially diminish the problem of unauthorized switching of long distance customers while continuing to encourage carriers to compete for a customer's business.

## VI. CONCLUSION

Consumers should have the right to choose their long distance carriers without being victimized by deceptive, fraudulent or unfair marketing practices. The best way to ensure consumer protection against slamming is to put the control where it belongs -- in the hands of the consumer. Written authorization is the best way to protect the consumer's freedom of choice.

Deceptive and fraudulent marketing practices inconvenience consumers and deny them basis for making informed telecommunications choices. Further, such practices defeat legislative purposes in opening Alaska to intrastate competition.

The process of choosing a long distance carrier should be driven by the informed choice of consumers and not by deceptive sales and advertising practices of long distance companies.

FROM: GCI

HB 289  
BRIEFING PAPER

OVERVIEW

Passage of HB 289 would adversely affect long distance competition in Alaska in two important ways. First, new competitors, such as GCI, would not be able to sign up future customers prior to certification; second, any customers wishing to sign up with a new company, such as GCI, or wishing to change carriers in any way would have to not only sign a written authorization, but also undergo a cumbersome confirmation process. Instead of being called the Interexchange Consumer Protection Act of 1991, this bill should be called the Telephone Consumer Harassment Act of 1991. This bill is not designed to protect consumers, it is purely designed to frustrate and delay robust competition.

Following is a sectional analysis of the impact of this proposed legislation. Notably, in response to SB 206, the APUC has already addressed the issues presented in HB 289 and has promulgated definitive regulations which require written authorization before changing telephone companies. In short, HB 289 is unnecessary, anti-competitive, and anti-consumer.

Section 1. SHORT TITLE.

As pointed out above, calling this the Interexchange Consumer Protection Act of 1991 is clearly a sham, and legislators should be made aware of this fact. This bill does not provide any

meaningful protection beyond that already provided by the APUC.

## Section 2. FINDINGS.

This section attempts to link the lower-48 practice of slamming with Alaska. In the lower-48 there have been instances where customers were switched to another long distance carrier without the customer's knowledge or consent. This issue was the focus of a lawsuit between MCI and ATT which has been settled by requiring carriers either: (1) to obtain letters of authorization for changes from the customer to be kept on file by the carrier; or (2) to provide tapes of carrier changes phoned in by customers via touch tone phones; or (3) to obtain third party independent verification.

The FCC is currently engaged in a rulemaking proceeding to determine whether or not the MCI-ATT settlement should be adopted as a universal requirement, or if the FCC should adopt some other, lesser form of protection. To date, the FCC has not required letters of authorization or third party verification. Nor has it required confirmation of a customer's wish to change carriers.

In Alaska, there is no evidence that slamming has been a problem. Even so, the APUC in promulgating its competitive regulations opted to require letters of authorization. This means that (except with the introduction of 1-PIC) GCI cannot switch a consumer from Alascom to GCI without a signed letter of

authorization from that consumer, and vice versa. This is protection beyond what the FCC requires today.

It is counterfactual for the legislature to make a finding that there is evidence of slamming in Alaska. In a prolonged proceeding before the APUC where slamming was an issue, no evidence was brought forward to indicate that slamming was a problem in Alaska. Moreover, the proposed legislation assumes in finding number (6) that the APUC has not acted to protect consumer interests and therefore the legislature must. This is simply untrue.

### Section 3. AMENDMENTS TO AS 42.05

Sec. 42.05.870(b) essentially states that unless a carrier is certified to provide competitive long distance service under the new competitive statute, it cannot solicit customers.

While appearing benign on the surface, this section would have the effect of prohibiting GCI, or any other new competitor, from collecting letters of authorization prior to the company's certification date. GCI expects to be certified May 15, 1991. This is also the date the legislature intended competition to begin. By forcing GCI to begin collecting letters of authorization after May 15, 1991, the advent of competition will be further delayed.

The intent of this section is not to protect consumers. There is no risk to consumers in signing a form which states that "if GCI is certificated, then I would like GCI to be my long

distance carrier." The risk is all on GCI in marketing time and expense. The purpose of this section is solely to delay competition.

Sec. 42.05.870(c). This section describes the process that must take place before a consumer can change carriers. The only additional substantive requirement, beyond that which is already required by the APUC and good business practices, is the notion that the change will not be valid unless separately confirmed. The intent of this bill is to require separate confirmation in addition to a written authorization by the customer. This requirement goes far beyond anything ever contemplated by either the FCC or the APUC and constitutes customer harassment. Furthermore, contrary to SB 206 this requirement impedes robust competition. This legislation, if passed, would make it harder to change long distance carriers than it is to get married or obtain a driver's license. This is hardly in keeping with a free competitive market.

Sec. 42.05.870(d)-(h). These sections lay out the separate confirmation requirement. A carrier may either obtain a signed, written confirmation from the customer itself, or employ an independent third party to obtain oral verification. If the carrier elects to use independent verification, confirmation will only be valid if the confirmation is made at least 72 hours after the initial change order by the customer. The carrier is required to retain all records subject to audit. The confirmation procedures also apply to any customer wishing to change carriers on

his or her own initiative.

Clearly, this legislation if passed, would interfere with healthy competition. A long distance carrier may not take a customer's written word that he or she wishes to use that carrier for its long distance service. It must either mail out yet another form or incur the expense of hiring an independent party to call the customer 72 hours later to ensure the customer really knows what it wants.

This frustration of competition is clearly designed to benefit the incumbent carrier which has 100% of the market today. If this legislation is passed, changing from Alascom to GCI, or any other competitor, for in-state service will become costly in terms of consumer irritation and time, and Alascom will continue to unfairly dominate in-state long distance service. The legislation is completely unnecessary: the APUC has already acted and there is no evidence of slamming in Alaska. Consumers will be disadvantaged for no reason.

ALASKA PUBLIC UTILITIES COMMISSION

Comments on CSHB 289

May 9, 1991

The Commission still does not believe this bill is necessary. However, the proposed committee substitute dated May 8, 1991 is the preferable alternative.

The focus of the problem of "slamming" is upon the absence of customer consent to a change in his long distance carrier due to manipulation by competing companies, or their marketing representatives.

There has been no evidence of such a problem on the interstate level in Alaska. Nevertheless, the Commission has already issued a regulation to address any potential problem on the in-state level. That regulation requires a signed authorization from the customer before a change in carriers can be made.

The key here is to achieve the best balance between consumer convenience and consumer protection. A writing is the best expression of one's consent and it should not need to be "confirmed", verified, or duplicated. Also, the costs of doing business (which are ultimately borne by the consumer) should be considered.

The original bill was complex and inconvenient without a significant gain in consumer protection. The May 2nd proposed committee substitute is an improvement but still contains inconsistencies and confusing terminology. The better alternative is the May 8th proposed committee substitute which simplifies and clarifies the required procedure for all parties. It also enhances the existent regulation of the Commission.

Once in-state competition begins and a track record begins to develop, the Legislature and the Commission will be in a better position to determine what other specific steps, if any, may be necessary to address potential or actual incidences of "slamming."



MCI TELECOMMUNICATIONS CORPORATION  
STATEMENT REGARDING HB 289

MCI Telecommunications Corporation has serious concerns about the anticompetitive nature of HB 289, the Interexchange Consumer Protection Act of 1991. The legislation in its current form would undo much of the progress made by the Legislature and the Alaska Public Utilities Commission (APUC) toward providing intrastate competition.

- o HB 289 is not in the best interest of consumers depriving them of the advantages of a competitive marketplace and subjecting them to additional delays and increased costs for telecommunications services.
- o Today consumers routinely purchase good and services over the telephone. To require another written confirmation or an independent third party verification in addition to the APUC requirement of written authorization is inconsistent with the current practices in the marketplace, is likely to cause customer confusion and denies the consumer the flexibility of easily switching companies to take advantage of lower prices or to choose a service which will better fit his/her needs.
- o The bill provides an unfair advantage to Alascom reinforcing its dominant position in the marketplace by creating additional hurdles for other carriers to overcome in obtaining new customers.
- o HB 289 goes beyond the current proposal being considered by the Federal Communications Commission (FCC). The FCC's Rulemaking in CC Docket No. 91-64 proposes to allow an interexchange carrier to use any of the following three actions before switching a customer's long distance service: 1) long distance carrier has on hand an authorization card signed by the customer and sent back to the carrier; 2) consumer initiates a call from home to an automated 800 number, and through a sequence of prompts, confirms the choice of the long distance carrier; or 3) consumer's choice of a long distance carrier is verified by an independent firm unaffiliated with any long distance carrier.

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ROBERT E. STOLLER

May 8, 1991

VIA FACSIMILE

Clifford J. Groh  
c/o Representative David Finkelstein  
P.O. Box V  
Juneau, AK 99811

Dear Cliff:

It was a pleasure speaking with you today about CSHB 289. As we discussed, I am sending you three recommended changes to the CS Work Draft.

(1) To eliminate ambiguity on the 1 versus 2 written consumer authorizations issue, AS 42.05.870(d) should be amended to read:

(d) In this section, "change order" means an instruction ~~to~~ the local exchange carrier from a long distance carrier to substitute one long distance carrier for another as the provider of long distance services to the customer.

(2) To allow companies to collect conditional change orders prior to certification, a new section AS 42.05.870(e) needs to be added that states (something like):

A company that has applied for a certificate to provide long distance telephone service may collect conditional change orders and customer confirmations prior to certification, as long as the company complies with the provisions of AS 45.05.870(a) and (b). Conditional change orders become effective on the date the APUC grants the company a certificate. For purposes of implementing this provision, the word "company" shall be substituted for the phrase "long distance carrier" in AS 45.05.870(a) and (b).

Cliff Groh  
May 8, 1991  
Page 2

(3) To allow the APUC to implement competition in Anchorage and Ketchikan as ordered (using 1-FIC), a new section AS 42.05.870(f) needs to be added that states (something like):

This legislation does not apply to the areas served by Anchorage Telephone Utilities or Ketchikan Public Utilities, until so ordered by the Alaska Public Utilities Commission.

Thank you, Cliff, for considering these revisions. If you have any questions, please call.

Very truly yours,

CONDON, PARTNOW & SHARROCK

BY:

  
~~Deborah L. Williams~~

DLW/kkc



# House State Affairs Committee Representative Gene Kubina, Chair

DATE: May 15, 1991

PLACE: Capitol, Room 102

**SUBJECT OF MEETING:**

- \*HB 42 - Relating to Health Benefits for Part-Time St. Employees
- \*HB 273 - Relating to Payment for Medicare Premium Charges
- \*HB 308 - Relating to Adoption of Emergency Regulations

NAME	REPRESENTING	BUSINESS/PERSONAL MAILING ADDRESS	ZIP	(H) PHONE	(W) PHONE	DO YOU WANT TO TESTIFY?		WHAT SUBJECT/ WHICH BILL?
SOB STALNAKER	RETIREMENT	P.O. BOX. CR.		<del>4470</del>	4470	<input checked="" type="radio"/>	<input type="radio"/>	HB 42
GAIL GRAYSON	MCI MCI	707 17th St #300 Denver CO 80202			303 271 6676	<input checked="" type="radio"/>	<input type="radio"/>	HB 289
Bob Manners	NEA	105 Municipal Way # 302				<input type="radio"/>	<input checked="" type="radio"/>	HB 273
Diane Lindbode Diane Lindbode	Ulmer Ulmer					<input checked="" type="radio"/>	<input type="radio"/>	HB 42
Reed Stora	GLI	Box 1211 Juneau		566 3300		<input checked="" type="radio"/>	<input type="radio"/>	HB 289
						<input type="radio"/>	<input type="radio"/>	
						<input type="radio"/>	<input type="radio"/>	
						<input type="radio"/>	<input type="radio"/>	
						<input type="radio"/>	<input type="radio"/>	
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						<input type="radio"/>	<input type="radio"/>	
						<input type="radio"/>	<input type="radio"/>	

**MCI**

**At a Glance**



**MCI Communications Corporation**  
1133 19th Street, N.W.  
Washington, DC 20036

June 1989

## Profile

**M**CI Communications Corporation offers complete worldwide voice, data and messaging services to millions of business and residential customers, state and federal agencies and other organizations.

MCI® owns and operates the world's second largest telecommunications network, representing an investment of more than \$6 billion. The new MCI system, second to none in leading-edge technology, uses the highest level of network intelligence and the most advanced monitoring and control systems. Transmission modes include fiber optics, digital microwave and digital switching technologies.

Services include residential long distance calling, operator services and voice and data options geared to commercial enterprises, including 800 and 900 applications, WATS-like PRISM™ services and the MCI Card®, convenient for domestic and international calling.

MCI's long distance service enables customers to call throughout the United States and to dial direct to 151 nations representing 99 percent of overseas calling from the U.S.

MCI is the only U.S. telecommunications company with a complete array of domestic and international business services—private global networks, telex, electronic mail, packet switching and a dedicated facsimile network.

MCI's 17,000 employees are located in seven domestic divisions and an international division with offices in 46 countries.

**MCI Southwest**  
The MCI Building  
100 South Fourth Street  
St. Louis, MO 63102  
314-342-8100

**MCI Pacific**  
201 Spear Street  
San Francisco, CA 94105  
415-978-1100

**MCI International, Inc.**  
Two International Drive  
Rye Brook, NY 10573  
914-937-3444

**Western Union International, Inc.**  
(a subsidiary of MCI International)  
Two Executive Drive  
Fort Lee, NJ 07024  
201-585-1880

**RCA Global Communications, Inc.**  
(a subsidiary of MCI International)  
201 Centennial Avenue  
Piscataway, NJ 08854  
201-885-4330

## Family of Services

The MCI worldwide communications system delivers a wide array of voice, data and messaging products and services—anywhere, anytime. Quality and reliability are hallmarks of MCI domestic and international services, from residential long distance calling to a range of technologically advanced services for every business need. Following is a list of MCI's major products and services.

### MCI VOICE SERVICES

#### MCI Dial "1" and Dial-Up Long Distance Service

With MCI long distance, customers can make interstate calls at any time throughout the United States, Puerto Rico and the U.S. Virgin Islands. MCI also provides intrastate long distance service where authorized by state regulatory agencies.

#### MCI Worldwide Direct Dialing

Enables customers to place calls to 151 countries that can be reached by dialing direct.



#### MCI Card\*

Available without charge for easy calling to domestic and international locations while traveling. MCI Card users can place calls from the U.S. to 181 foreign countries and, with the MCI CALL USA feature, can make calls to the U.S. from a growing list of countries.

#### Operator Services

A full range of operator services is available to business and residential customers for domestic and international calling. Operator services include collect, third-party charging, person-to-person and station-to-station calling assistance. Through MCI CALL USA, customers can use the MCI Card to make direct calls to the U.S. from a growing list of foreign countries.

#### MCI PRISM PLUS™

Designed for companies spending at least \$120 a month on long distance calling, PRISM PLUS offers lower rates than Dial "1" service, without the need for dedicated or special lines.



#### MCI PRISM™

A family of outbound long distance and international services tailored for business users of all sizes. PRISM services provide complete coverage at the right price, based on the size of the business and its calling patterns. Unlike traditional WATS, domestic PRISM calls are priced based on the actual distance of each call.

### **MCI 800 Service<sup>SM</sup>**

An inbound WATS service providing full coverage to the 48 states, plus options for calling from Hawaii, Alaska, Puerto Rico, the U.S. Virgin Islands and Canada. MCI 800 Service's features include flat distance-sensitive rates on each call; same number calling for both in-state and out-of-state callers; volume discounts; call detail reporting; and dedicated or switched customer connection. MCI also provides international 800 service between the U.S. and a growing number of countries. MCI 800 Service also offers the ability to route calls based on area code origination, day of week and time of day. Calls can also overflow to another location if the primary location is busy.

### **MCI 900 Service**

The first nationwide caller-paid 900 service that can accommodate both two-way conversations and pre-recorded messages. It enables subscribers to offer a single nationwide telephone number.

### **MCI Corporate Account Service<sup>®</sup> Corporate Account Service PLUS<sup>SM</sup>**

Special discounts and reporting services for multi-location businesses spending a combined total of at least \$2,500 monthly for any combination of MCI's long distance services - Dial "1," Prime Calling Option, MCI Card and the PRISM family of services. Corporate Account Services feature discounts, detailed calling reports and monthly management reports.

The MCI network is monitored and controlled 24 hours a day by a national and three regional network management centers. Any single center could manage the entire network if necessary, ensuring reliable backup and smooth functioning at all times.

The MCI network represents an investment of over \$6 billion. An additional investment of \$3.5 billion over the next five years will expand the network's reach, capacity and versatility. The investment will provide greater redundancy through alternative routing and backup systems to reduce the possibility of service interruption. It will increase intelligence and automation to ensure flexibility in network operations and make possible rapid introduction of new products and services.

Before new technologies are integrated into the MCI network, they are tested in real time at the MCI Engineering Development Laboratory, located in Reston, Virginia, to make sure all hardware and software work in harmony before being placed in service.

### **Network Statistics: 1988**

Gross Investment: \$6.5 billion

Planned Investment: \$3.5 billion 1989-1993

Billable Call Volume: 23.8 billion minutes

Total Route Miles: 44,300

Total Capacity Circuit Miles: 898 million

Switch Ports: 1.8 million

**M**CI owns and operates the world's most modern telecommunications network to carry voice, data and messaging transmissions around the world. The system consists of the most advanced fiber optic, digital microwave and digital switching technologies and satellite facilities. MCI emphasizes digital transmission because it provides maximum quality, efficiency and flexibility in communications.



The MCI network features ultra-high speed transmission, virtually unlimited capacity and unique network control capabilities. MCI's global network provides voice, high speed

data and messaging services to more than 200 countries and facsimile over a unique dedicated network.

The MCI system includes transcontinental and regional high density fiber optic and digital microwave routes. MCI was the first to carry commercial traffic at 1.8 gigabits—billions of bits per second.

The highest level of network intelligence—Common Channel Signaling System No. 7 (CCS7)—is used by MCI to extend network control to customers, to reduce call setup time and to make possible continued enhancement of MCI's virtual private network and 800 services.



### Vnet<sup>®</sup>

An advanced private network service that combines the benefits of control and value, traditionally enjoyed by users of private networks, with the efficiency and economy of a shared public network. Vnet service is also available to provide links between customers' overseas locations and their domestic networks via MCI's international private line service.

### MCI WATS

A customized long distance service for businesses that offers the traditional five bands of U.S. coverage. MCI WATS also enables users to call overseas at maximum discounts, while enjoying the advantages of dedicated service.

### MCI Hotel WATS

Provides the lodging industry with less expensive domestic and international calling services for guests.

### MCI University WATS

A variation of Hotel WATS for colleges and universities, which accommodates lower usage in the summer months.

**Prime Calling Option<sup>SM</sup>**

Offers customers discounts on calls from home or office to points within the U.S., Puerto Rico and the U.S. Virgin Islands for a modest monthly fee.

**MCI Commercial Affinity Group Billing Arrangement**

Provides discounts and other special benefits to qualified organizations, such as trade associations, who enter into agreements with MCI to jointly market MCI commercial services to their members. Over 70 groups are currently participating in this program.

**MCI Voice Grade Private Line**

A voice transmission service via a dedicated channel for a single customer's use between two or more domestic or international locations.

**Revenue Growth**  
(In Billions)



84 85 86 87 88  
YE December 31

Over the past five years, MCI's revenue has grown from \$1.96 billion in 1984, to \$5.14 billion in 1988.

## Financial Highlights

**M**CI set records for growth and profitability in 1988, reporting revenue of \$5.1 billion and earnings of \$334 million, or \$1.23 per common share. Revenue rose 30 percent, compared with 1987, while earnings and earnings per common share increased five-fold over the prior year.

MCI's stock is traded on the National Market System of NASDAQ, under the symbol MCIC. At the end of 1988, there were 60,182 record holders of MCI common stock and 243 million shares outstanding.

During 1988, MCI's common stock was the most actively traded security in the over-the-counter market, accounting for a trading volume of over 473 million shares. That was the eighth year in a row that MCI's common stock led the over-the-counter market in trading activity.

### Financial Statistics

Operating  
Margins:

11.4%

6%

87 88

Earnings  
Per Share:

\$1.23

\$ .22

87 88

## DATA AND MESSAGING SERVICES

### MCI Data Network Services

A cost-effective means of carrying customer data, voice and image applications at many speeds by either terrestrial or satellite systems. Included in MCI's digital data offerings are T-1 access and T-1 intercity channels. MCI offers its business customers end-to-end service, including local access and customer premise equipment. MCI offers a wide range of private line services between the U.S. and major business centers in more than 80 countries.



### MCI Mail

An efficient and effective worldwide electronic mail service. Using any personal computer or terminal, correspondence can be sent by electronic means, or by telex, fax or hardcopy delivery services, to virtually anywhere in the world over the MCI Mail network.

### Switched 56 Kilobit Data Service

Customers can transmit data over existing facilities with dial-up 56 kilobit (56,000 bits per second) service. The service offers on-demand, high-volume data communications for the price of voice calls. Data transmissions are carried over MCI's digital data network to assure quality and reliability for critical data, facsimile, video and secure voice transmission applications.

### **MCI fax**

MCI offers a worldwide facsimile transmission service for every need, from real time fax-to-fax to PC-to-fax applications. MCI fax transmits documents over a dedicated fax network that is part of MCI's digital backbone network, ensuring fast, error-free delivery. Customers enjoy savings because transmission charges are based on the time a message takes, rather than full-minute rounding. The service includes authorization codes and personalized range privileges. Detailed management reports are provided, along with a specialized fax invoice. Enhanced fax messaging capabilities are provided through the integration of store-and-forward fax and MCI Mail-to-Fax and MCI Mail-to-Telex into the MCI fax network.

### **Fax Dispatch<sup>SM</sup>**

Combines the technologies of facsimile and electronic mail. It enables MCI Mail subscribers to send faxes directly from their PCs to more than 4.2 million Group 3 facsimile machines worldwide. Fully integrated with MCI Mail's message-handling features, Fax Dispatch features include abbreviated and multiple addressing and confirmation and cancellation notices as well as an electronically generated cover page.

### **MCI Telex**

An advanced international and domestic telex system featuring basic, real-time and store-and-forward service. MCI telex can be used by subscribers with telex and data terminals, or personal computers with communicating word processors, to send text electronically to nearly two million telex subscribers worldwide.

**1986** MCI acquires Satellite Business Systems from IBM, establishing a business relationship with IBM that continues today.

**1987** MCI completes construction of a coast-to-coast fiber optic system, giving the company coast-to-coast and border-to-border digital connectivity through a combination of fiber, digital radio and satellite links. MCI is also the first to carry commercial traffic at a transmission speed of 1.13 gigabits (billions of bits per second).

MCI offers domestic and international 800 service with call-in capability from all 50 states, Puerto Rico, the U.S. Virgin Islands and selected foreign locations.

**1988** MCI initiates direct dial international service to all direct-dial countries in the world and offers operator services for the origination of MCI Card calls from rotary dial phones throughout the U.S. and Puerto Rico. MCI also becomes the first to carry commercial traffic at a transmission speed of 1.8 gigabits.

MCI acquires RCA Global Communications (RCA Globcom\*), consolidating its position as the only U.S. telecommunications company offering domestic and international voice, telex, facsimile, high speed data and electronic mail services.

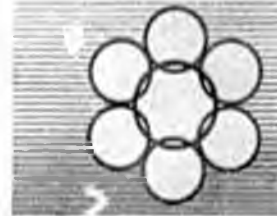
Pursuant to an agreement with IBM, MCI pays \$677 million for the nearly 47 million shares of MCI common stock issued to IBM in connection with the acquisition of SBS, and IBM acquires \$400 million of MCI preferred stock.

\*RCA used with permission.

## History

- 1968** MCI founded by William G. McGowan, chairman, and incorporated in Delaware on August 8.
- 1969** MCI becomes the first company authorized by the FCC to compete with AT&T in the domestic long distance market.
- 1978** The Execunet decision becomes final, giving MCI the right to provide any long distance service it lawfully tariffs.
- 1982** MCI acquires Western Union International, giving the company a valuable presence in the international marketplace.
- AT&T signs a consent decree with the Department of Justice, requiring the company to divest the Bell operating companies, effective January 1, 1984.
- 1983** Under an agreement with TransCanada, MCI initiates dial-up voice service to Canada, becoming the first company to offer an alternative international long distance service.
- MCI Mail™, worldwide electronic mail service, is introduced.
- 1984** Divestiture breaks up the Bell System, and Americans for the first time can choose among long distance companies on an equal basis.
- 1985** MCI is organized into seven domestic divisions, corresponding to the regional Bell holding companies. An eighth division, MCI International, manages MCI's rapidly growing international business.

## MANAGEMENT SERVICES



### **MCI Integrated Network Management Services (INMS™)**

An innovative family of services that gives customers a comprehensive set of network management applications. With INMS, MCI customers can cost-effectively monitor, analyze and control their MCI voice and data services through a single user interface.

### **MCI View™**

Provides an interface to IBM's NetView™ and a real-time delivery of Vnet switch and traffic statistical alarms and DDN performance and service affecting alarms. MCI is the only long distance carrier to provide this network management interface.

### **MCI Intelsat Business Services (IBS)**

A completely digital private line service for customers with large international communications requirements. IBS enables users to transmit high speed data, voice, facsimile and video traffic via satellite anywhere in the world.

## Headquarter Locations

**MCI Communications Corporation**  
1133 19th Street, N.W.  
Washington, DC 20036  
202-872-1600

**MCI Northeast**  
Five International Drive  
Rye Brook, NY 10573  
914-937-6000

**MCI Mid-Atlantic**  
601 South 12th Street  
Arlington, VA 22202  
703-186-6000

**MCI Southeast**  
400 Perimeter Center  
Terrace, N.E., Suite 400  
Atlanta, GA 30346  
404-688-6000

**MCI Midwest**  
205 North Michigan Avenue  
Chicago, IL 60601  
312-856-2121

**MCI West**  
707 Seventeenth Street  
Suite 4200  
Denver, CO 80202  
303-294-0005

## Mission

**M**CI's objective is leadership in the global telecommunications industry, a business with tremendous growth and profit opportunities. To achieve this leadership, MCI's strategic priorities are to:

- Double revenue over the next four years.
- Compete in all long distance services markets, in all geographic areas, providing a full range of high-value services for customers who must communicate or move information electronically in the U.S. and throughout the world.
- Increase profitability to better serve the interests of our customers and stockholders.
- Improve operating and capital efficiencies so as to be the low-cost provider of services.
- Continue to enhance what is already the most modern network in the industry, fully able to deliver any service our customers demand in the U.S. and the world.
- Make premier service the standard by which we serve our customers.
- Be a champion of competition, supporting government policies that safeguard choice for consumers and businesses.
- Continue to attract and retain knowledgeable, resourceful and hard-driving people who can make things happen for our customers.