S T A T E   O F   M I C H I G A N

BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

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In the matter, on the Commission's own motion, to consider revisions to the procedures designed to prohibit switching an end user of a telecommunications provider to another provider without the authorization of the end user.	)	Case No. U-11900

At the September 28, 1999 meeting of the Michigan Public Service Commission in Lansing, Michigan.

PRESENT: Hon. John G. Strand, Chairman
Hon. David A. Svanda, Commissioner
Hon. Robert B. Nelson, Commissioner

OPINION AND ORDER

I.

HISTORY OF PROCEEDINGS

On April 23, 1999, the Commission issued an order in Case No. U-11900 (the April 23 order) revising its anti-slamming procedures in an effort to make them better correspond to those established by the Federal Communications Commission (FCC). The April 23 order also attempted to resolve several problems that arose regarding the practical application of the Commission's previously adopted procedures.

Several of the parties to Case No. U-11900 requested that the Commission rehear, reconsider, clarify, or stay various aspects of the April 23 order. On July 28, 1999, the Commission issued an order in this case (the July 28 order) granting in part and denying in part the parties' various requests. One result of the July 28 order was that the Commission stayed the effect of Sections 5 through 8 of its revised anti-slamming procedures and directed interested parties to submit comments regarding whether each of those four sections should be adopted, rejected, or revised.

In the July 28 order, the Commission established a schedule calling for the submission of all comments and reply comments regarding those four proposed anti-slamming provisions by August 11 and 25, 1999, respectively. Comments were received from the following parties: the Telecommunications Resellers Association and the Competitive Telecommunications Association (collectively, the TRA); MCI WorldCom Communications, Inc., and MCI WorldCom Network Services, Inc., formerly known as MCI Telecommunications Corporation (MCI WorldCom); AT&T Communications of Michigan, Inc. (AT&T); Qwest Communications Corporation (Qwest); Sprint Communications Company, L.P. (Sprint); the Telecommunications Association of Michigan (TAM); GTE Communications Corporation and GTE North Incorporated (GTE); Ameritech Michigan; and Attorney General Jennifer M. Granholm (Attorney General). Ameritech Michigan also filed a motion seeking relief from judgment, in which it asked the Commission to extend the deadline for implementing local exchange carrier (LEC) protection from August 17, 1999 to April 2000. MCI WorldCom filed a response to Ameritech Michigan's motion on September 7, 1999.

II.

BACKGROUND

Following the expansion of competition in the telecommunications industry, Michigan has seen the rapid introduction of new services, entry of new providers, and development of new technologies. This competition has likewise provided customers with an ever-broadening range of prices, terms, and conditions of service from which to choose. However, it has also given rise to unscrupulous actions by a few service providers. One such action, which has reached epidemic proportions and caused extensive harm and frustration to customers throughout the country, is commonly referred to as slamming.[1]

To better protect Michigan's citizens from this harmful practice, the Legislature passed and the Governor signed into law Public Acts 259 and 260 of 1998 (Acts 259 and 260), which amend the Michigan Telecommunications Act, 1991 PA 179, MCL 484.2101 et seq.; MSA 22.1469(101) et seq., (the Act). Those amendments expressly prohibited a telecommunications provider from switching a customer to another service provider without that customer's authorization. In addition, the amendments granted the Commission broad authority to issue orders establishing and enforcing all procedures deemed necessary to eliminate slamming. Among other things, they provided the Commission with the power to (1) impose fines of up to $50,000 per occurrence for any violations of those procedures, (2) demand the payment of all damages necessary to make whole both the slammed customer and the customer's authorized service provider, and (3) revoke the license of any provider that fails to comply with the Commission's directives regarding slamming.

The Commission therefore issued an order on September 23, 1998 in Case No. U-11757 in which it established the initial set of anti-slamming procedures to be followed by all service providers operating in Michigan. The adoption of those procedures was timed to correspond to the effective date of Public

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[1]"Slamming" refers to switching one or more of an end-use customer's telecommunications services from one provider to another without that customer's permission.

Acts 259 and 260. This occurred despite the recognition by all parties that the FCC would shortly be revising its own anti-slamming procedures and that at least some of the changes eventually adopted by the FCC would have to be reflected in the Commission's procedures.

On December 17, 1998, the FCC issued an order in CC Docket No. 94-129 (the FCC's December 17 order) broadening the scope of its anti-slamming rules, imposing more stringent verification requirements regarding customers' requests to change service providers, and establishing penalty provisions designed to take the economic incentive out of slamming. According to that order, which was issued pursuant to Section 258 of the federal Telecommunications Act of 1996 (FTA), 47 USC 258, the FCC's revised rules constitute the minimum standards that must be adhered to by each state that adopts its own anti-slamming procedures.

In response to the FCC's December 17 order, the Commission initiated an investigation in the present case on February 2, 1999, in which interested parties were invited to file proposals concerning revisions to the Commission's initial anti-slamming procedures that they believed were necessitated by the FCC's new rules. The Commission further offered the parties an opportunity to address, in the context of their proposals, whether the Commission's then-existing procedures should be revised to impose any of nine specific requirements ranging from establishing a jointly-funded customer education program to allowing a customer to suspend its primary interexchange carrier (PIC) or LEC protection[2] by employing the same procedure used to initiate that protection.

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[2]PIC and LEC protection programs, which are also called PIC/LEC change protection programs or PIC and LEC freezes, refer to arrangements in which any request to change a participating customer's service provider must be preceded by receipt of proof of a customer's authorization to make the change.

Following review of the parties' proposals and responses, the Commission adopted the revised anti-slamming procedures attached as Exhibit A to the April 23 order. Moreover, in response to the parties' various requests for rehearing, reconsideration, clarification, and stay, the Commission issued the July 28 order, which further revised the anti-slamming procedures. The most significant change imposed by the July 28 order arose from the Commission's decision to stay the effect of Sections 5 through 8 of the procedures adopted by the April 23 order, to treat each of those four sections as proposed anti-slamming procedures, and to direct interested parties to submit comments and reply comments regarding those provisions.

III.

DISCUSSION

Section 5 of the proposed anti-slamming procedures would establish a registration process designed to ensure that end-use customers are served by reputable, financially viable carriers and to make it easier for those customers to identify and contact their carriers. As for Sections 6 and 7, those proposed procedures would impose certain responsibilities--as well as potential liability--on carriers that either (1) elect to serve as billing agents for other service providers or (2) allow switchless resellers to use their carrier identification codes (CICs). Finally, Section 8 would require an executing carrier--generally, an LEC--to notify customers on its system of any change in the customers' respective service providers. Each of those proposals, as well as Ameritech Michigan's request to extend the deadline for implementing LEC protection, is addressed below.

Registration Requirement

As set forth in Exhibit A to the April 23 order, proposed Section 5 requires all telecommunications service providers to submit a registration and receive Commission approval of that registration in order to operate in Michigan. The envisioned registration form, which the Commission Staff (Staff) should develop and make available for filing in either a hard copy or electronic format, would require each service provider to submit: (1) the service provider's address and phone number, (2) the names and addresses of its officers and other principals, (3) the name, address, location, and phone number of its registered agent, (4) a statement of the service provider's financial viability, and (5) a verification that neither the service provider nor its officers and principals have a history of committing fraud on the public. Moreover, proposed Section 5(d) states that "After notice and opportunity to respond," the Commission may revoke or suspend the operating authority of any carrier that fails to file a registration, fails to notify the Commission--within 30 days--of any subsequent changes to the information contained in a previously submitted registration, provides materially false or incomplete information when attempting to obtain a registration, fails to pay any forfeiture or fine imposed for violations of anti-slamming procedures or statutes, or is found responsible by the Commission for "an unreasonably large number of violations" of those procedures or statutes. April 23 order, Exhibit A, pp. 12-13. Finally, proposed Section 5(e) precludes an LEC from listing as a customer's presubscribed carrier any service provider that lacks an approved registration.

The parties raise several objections to this proposed section. For example, Qwest[3] and the TRA note that Section 506 of the Act requires the Commission to conduct a contested case proceeding before revoking a carrier's authority. They therefore contend that because Section 5(d) would permit the revocation or suspension of a carrier's authority following only "notice and opportunity to respond," the proposed language would conflict with the Act. As a result, they continue, the Commission should either eliminate Section 5(d) or, at a minimum, revise it to state that its four enumerated penalties may be imposed only after completion of "a contested case proceeding as provided under section 203." Qwest's comments, p. 9; citing MCL 484.2506; MSA 22.1469(506).

Qwest and the TRA further contend that proposed Section 5(d)(4) is so ambiguous as to provide no meaningful standards. Specifically, they note that this section would allow the Commission to revoke the registration of any service provider that is found responsible for "an unreasonably large number of violations" of Section 505 of the Act, the Commission's anti-slamming procedures, or Commission orders issued pursuant to Section 505 of the Act. April 23 order, Exhibit A, p. 13. Because proposed Section 5 provides no objective guide as to what constitutes an unreasonably large number of violations, they argue, the adoption and imposition of this provision could result in the arbitrary and discriminatory treatment of service providers.

Other parties, such as MCI WorldCom, contend that the Commission should narrow the scope of the information called for under Section 5(b). Specifically, MCI WorldCom asserts that a service

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[3]In addition to the specific concerns addressed below, Qwest opposes the adoption of proposed Section 5 on the general theory that the Act provides the Commission with no express authority to implement a registration system of any nature. However, as noted earlier in this order, Public Acts 259 and 260 of 1998 grant the Commission broad authority to take all steps necessary to eliminate slamming in Michigan. Establishing and operating the simple registration system envisioned in proposed Section 5 falls well within that authority.

provider should be required to submit only its name, address, and phone number--as called for under proposed Section 5(b)(1)--and provide the name, address, location, and phone number of the agent designated to receive service on behalf of that carrier--as required under proposed Section 5(b)(3). However, in order to provide the Commission with a more accurate database, MCI WorldCom goes on to recommend revising proposed Section 5 to require service providers to update their registrations annually and to notify the Commission, within 30 days, if they either file for bankruptcy or terminate their operations.

Still other parties, like Sprint and GTE, suggest eliminating proposed Section 5(e). Sprint claims that this provision, which bars an LEC from designating as a customer's presubscribed carrier a non-registered service provider, could be used by incumbent LECs for anti-competitive purposes. As for GTE, it asserts that it would be difficult for LECs to determine whether many of those presubscribed carriers have actually completed the registration process. This is particularly true of switchless resellers, GTE continues, because those resellers generally deal solely with the facilities-based interexchange carriers (IXCs) over whose systems the resellers' calls are routed. GTE goes on to point out that it is the customer, and not the LEC, that actually designates who the customer's presubscribed carrier will be.

Finally, TAM contends that two changes should be made to proposed Section 5. First, it asserts that previously licensed carriers should be exempt from this registration requirement. According to TAM, this is because the provisions contained in Section 5 would provide the Commission with little or no new information regarding that group of service providers. Second, TAM recommends that the Commission "issue some sort of acknowledgment of registration" to service providers so that they have something to show LECs when asked for proof of registration.

In response to these parties' assertions, the Attorney General recommends that proposed Section 5 "be put into effect in its entirety." Attorney General's reply comments, p. 2. According to her, adopting Section 5 in its current form would significantly ameliorate the problem of identifying, locating, and punishing carriers that violate the Commission's anti-slamming procedures.

The Commission agrees in significant part with the Attorney General's recommendation to adopt proposed Section 5. As initially noted in the April 23 order, attempts to apply the Commission's anti-slamming procedures in Cases Nos. U-11917 through U-11929 were significantly hindered by the inability to "locate an agent to accept service of the customers' complaints or to accept receipt of the Commission's show cause orders." April 23 order, p. 25. Moreover, even where the Commission or the customers successfully identified service providers that were acting improperly, it was subsequently determined that some of those providers had already declared bankruptcy or had otherwise ceased operations. The Commission finds that, because it would help overcome these and other problems, the registration system set forth in proposed Section 5 should be added to the Commission's existing anti-slamming procedures.

Nevertheless, the Commission finds that it should adopt several of the changes recommended by the parties. For example, the Commission agrees with Qwest and the TRA that the revocation or suspension of a carrier's authority should be undertaken only after completion of a contested case proceeding. It therefore concludes that the phrase "After notice and opportunity to respond" should be stricken and replaced with "Following a contested case proceeding" at the start of Section 5(d).

Next, the Commission agrees with Qwest and the TRA that approving use of the phrase "an unreasonably large number of violations" in proposed Section 5(d)(4) would needlessly inject ambiguity

into these anti-slamming procedures. Nevertheless, the Commission finds that simply selecting some number to serve as the threshold for a carrier's potential loss of its operating authority could prove counterproductive. Specifically, it could be viewed as establishing a safe harbor for slammers within which they could mistreat customers, harm competitors, and ignore the Commission's directives while risking only the imposition of fines. The Commission therefore concludes that Section 5(d)(4) should be revised to indicate that it applies to "any violations of these procedures, Section 505 of the Act, or Commission orders issued under Section 505 of the Act." This new language should make clear to all carriers that the Commission has discretion to revoke or suspend a carrier's operating authority, or do neither, following a contested case involving any such violation.

The Commission goes on to find that it should adopt MCI WorldCom's recommendation to require service providers to update their registrations annually and to notify the Commission, within 30 days, if they either file for bankruptcy or terminate their operations. This should help ensure that the list of registered service providers, which the Commission envisions the Staff posting on the Internet for easy examination by customers and competing carriers alike, remains as accurate as possible. Nevertheless, the Commission concludes that it should reject MCI WorldCom's suggestion to narrow the scope of the information required under Section 5(b). Instead, the Commission finds that the information required under this registration process should be expanded to include a list of each carrier's d/b/a's, as well as all names under which the carrier bills its customers or offers service.

Finally, the Commission agrees with GTE that it is the customer, and not the LEC, that will actually designate who that customer's presubscribed carrier or carriers will be. All the LEC will be called upon

to do is record the customer's choice.[4] In recognition of this fact, the Commission finds that it should substitute the word "record" for "designate" in Section 5(e) of its anti-slamming procedures.

Joint and Several Liability

Two portions of the proposed anti-slamming procedures at issue in this proceeding concern the imposition of joint and several liability. The first, set forth in Section 6(c) of the proposed procedures, states that any carrier that serves as a billing agent, provides bill collection services to another service provider, or buys the accounts receivable of another provider will be jointly and severally liable for any unauthorized service that is performed by the underlying service provider and that serves as the basis for at least a portion of the bill or bills that the provider seeks to collect. The second, found in proposed Section 7, states that any facilities-based IXC that knowingly permits switchless resellers to use its CIC will be jointly and severally liable for any slamming committed by those switchless resellers.

Virtually every party to this case opposes adopting Sections 6(c) and 7. For example, AT&T, the TRA, and GTE contend that these proposed sections would impose a form of imputed or derivative liability upon potentially innocent parties that bears no rational connection or relationship to the wrong that may have occurred. As a result, they continue, the proposed joint and several liability provisions would violate both procedural and substantive due process. In addition, Ameritech Michigan and TAM contend

[4]The Commission further notes that where the customer elects to change its long distance service from a facilities-based IXC to a switchless reseller that uses that IXC's facilities, or from one switchless reseller to another, the LEC might never be notified of the change. In those cases, where the LEC is not called upon to record the change in the customer's long distance carrier, no duty would arise under Section 5(e). In contrast, whenever the LEC is made aware of a request to change a customer's presubscribed carrier, Section 5(e) imposes a duty on that LEC to ensure that the new carrier possesses an approved registration.

that implementing Section 6(c) may reduce competition in the telecommunications industry by inducing billing agents to limit the number of carriers to which they provide billing services.

AT&T and the TRA, as well as MCI WorldCom, Sprint, and Qwest, go on to assert that imposing joint and several liability under Section 7 may force facilities-based carriers to refrain from doing business with any switchless resellers until those resellers each obtain their own CICs. According to these parties, adopting that proposed provision would create a barrier to entry by imposing unreasonable costs on those resellers and would quickly deplete the number of available four-digit CICs. Moreover, they note that the FCC is conducting an ongoing investigation into whether these problems can be resolved by revising the existing CIC assignment system or by having each state establish an independent third-party administrator to handle all PIC and LEC change requests.

For all of these reasons, the parties recommend that the Commission reject proposed Sections 6(c) and 7, and suggest that no further action be taken in this regard until after either the FCC rules on the issue or the Commission establishes an independent third-party administrator.

The Commission finds these arguments persuasive, in part. Specifically, it finds that in some situations imposing joint and several liability on a carrier for the improper actions of an unaffiliated service provider may result in unfair or unintended consequences. It therefore agrees with these parties that neither Section 6(c) nor Section 7 should be added to the Commission's existing anti-slamming procedures, at least in their currently proposed form.

Nevertheless, the Commission remains convinced that each telecommunications service provider should take all reasonable steps to ensure that its actions do not encourage slamming. Likewise, the Commission finds that each provider should be held fully accountable for its own actions and should not

derive any benefit from slamming. The simplest, most equitable way to accomplish this may be to include, as Section 6(f) of Commission's revised anti-slamming procedures, a provision stating that:

> No telecommunications service provider shall attempt to collect from an end-use customer any charges arising from unauthorized service. In addition, no such provider shall impose or attempt to collect from an end-use customer any fees for switching that customer to the unauthorized service provider or for subsequently switching the customer back to its authorized provider.

Because none of the parties have had an opportunity to review and comment upon this proposed provision, the Commission finds that an expedited process should be established for gathering and evaluating the parties' statements of position. Thus, the Commission concludes that all interested parties should file comments and reply comments regarding this proposed language by October 12 and 26, 1999, respectively.

Bills, Billing Agents, and Billing Services

In addition to the above-mentioned provision concerning joint and several liability, Section 6 of the proposed anti-slamming procedures would impose two other requirements. First, proposed Section 6(a) states that all customer bills issued by a telecommunications service provider must satisfy the FCC's truth-in-billing and bill format requirements. Specifically, that section would require that all such bills:

> (1) be organized in a way that highlights any new charges or changes to the customer's service;
> (2) contain full and non-misleading descriptions of all charges imposed;
> (3) provide clear identification of each of the customer's service providers; and
> (4) contain a clear and conspicuous disclosure of all information that a customer may need to make inquiries about, or to file complaints regarding, his or her charges and telecommunications service.

April 23 order, Exhibit A, p. 13. Second, proposed Section 6(b) would prohibit telecommunications service providers from serving as billing agents or providing bill collection services for any carrier that

does not possess an approved registration pursuant to the requirements of proposed Section 5. Several parties oppose adopting these two requirements.

For example, Ameritech Michigan and AT&T argue that proposed Section 6(a) conflicts with the Commission's goal, stated in the April 23 order, of closely adhering to "all FCC rules regarding the organization and wording of customer bills." April 23 order, p. 21. These parties note that following the Commission's development and disclosure of proposed Section 6(a) as part of the April 23 order, the FCC issued revised billing standards that are materially different than those proposed by the Commission. They further note that although the FCC's rules require bills to highlight "new providers," the Commission's proposed procedures would require bills to identify "new charges or changes in service." Ameritech Michigan's comments, p. 3; emphasis in original. Moreover, Ameritech Michigan and AT&T assert, the FCC specifically considered each of these options before concluding that "highlighting those service providers that did not charge for service on the previous bill is the better choice." Id., p. 5, citing In the Matter of Truth-in-Billing and Billing Format, CC Docket No. 98-170, at Paragraph 35. These parties therefore contend that the Commission should reject the language in Section 6(a) of its proposed anti-slamming procedures and replace it with provisions consistent with those adopted by the FCC and set forth at 47 CFR § 64.2001.

As for proposed Section 6(b), GTE notes that LECs and other large carriers frequently provide billing services to clearinghouses that submit billing records on behalf of hundreds of small service providers. Thus, GTE asserts, these carriers have no reasonable way of determining whether each underlying service provider possesses the required registration. It therefore argues that the Commission should either reject proposed Section 6(b) in its entirety or modify that provision to permit these carriers "to accept a

certification from the clearinghouse that the clearinghouse will submit charges only on behalf of properly registered telecommunications service providers." GTE's comments, p. 3.

The Commission agrees with the arguments presented by Ameritech Michigan and AT&T, and finds that it should replace the wording set forth in proposed Section 6(a) with language like that adopted by the FCC and set forth at 47 CFR § 64.2001. This is necessary to achieve the Commission's previously stated goal of adhering, as closely as possible, to the FCC's rules regarding the organization and wording of customer bills.

Nevertheless, the Commission does not find persuasive GTE's arguments in favor of rejecting or revising proposed Section 6(b). The Commission has little, if any, regulatory control over the billing service clearinghouses with which GTE and other carriers contract. As a result, allowing these carriers to shift their potential liability to those clearinghouses would greatly undermine the effectiveness of the Commission's anti-slamming procedures. Moreover, these carriers are not without some means of shielding themselves from the improper activities of either the clearinghouses they serve or the underlying service providers whose billing information is passed along by those clearinghouses. Specifically, the carriers are free to include hold harmless clauses in their contracts with clearinghouses and to establish whatever set of standards they feel clearinghouses should meet before electing to do business with them. The Commission therefore concludes that it should adopt the language in proposed Section 6(b) without modification and that it should simply redesignate this provision as Section 6(e) in order to accommodate inclusion of the FCC's rules regarding the organization and wording of customer bills.

Subscriber Notification of a Change in Service Providers

Proposed Section 8 requires an executing carrier to notify the customer of any change in the customer's service provider within ten days after the change takes effect. This provision further states that the notice shall (1) indicate the type of service that was changed, (2) supply the effective date of the change, (3) identify the company that is on record as previously providing that service, and (4) provide the identity (including the address and phone number) of the company to whom the customer's service has been switched. It also requires the executing carrier to preserve, for at least two years, records showing the date upon which each notice was issued.

Some IXCs, correctly anticipating that each of them could fall within the definition of "executing carrier" in situations where a customer is switched to a reseller that provides service through the use of the IXC's CIC,[5] object to this proposed provision. For example, AT&T and MCI WorldCom contend that in order to provide the notice required by Section 8, they would have to obtain "highly proprietary information" from each reseller, such as the name and address of every customer that agrees to take service from the reseller. AT&T's comments, p. 23. According to these IXCs, "it is unlikely that resellers would willingly turn over this information." Id. They therefore argue that the Commission should either exempt IXCs from the notification requirements of proposed Section 8 or reject this provision in its entirety (and rely solely on the truth-in-billing and bill format provisions as a means of informing customers of any changes in their service providers). Barring this, MCI WorldCom asserts that the Commission

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[5]Section 2.1(c)(2) of the Commission's anti-slamming procedures defines an executing carrier as "any telecommunications service provider that puts into effect a request that a subscriber's telecommunications carrier be changed." April 23 order, Exhibit A, p. 4; emphasis added. Thus, whenever a facilities-based carrier becomes aware of, and takes any action whatsoever to effectuate, a change request for an end-use customer receiving service over any portion of that carrier's system, the carrier would be required to provide notice pursuant to Section 8. For example, this would include situations in which the facilities-based carrier (whether an LEC or an IXC) merely reconfigures its system to accrue billing data for a reseller that plans to begin serving the customer in question.

should at least revise Section 8 to give carriers one billing cycle, instead of only 10 days, to provide the requisite notice.

Several LECs, such as TAM, GTE, and Ameritech Michigan, also object to proposed Section 8. These parties begin by asserting that although LECs would receive no benefit for executing the underlying change orders, Section 8 would impose an onerous reporting requirement on them. They further contend that any duty to directly notify customers of changes in their respective service providers should be imposed solely on the carrier submitting the change order. According to these parties, this is because the submitting carrier will reap the benefit of the change (by being allowed to serve the customer) and possesses all information necessary to provide the notice (such as the customer's name and address). Finally, they argue that due to the FCC's new billing standards and the 30-day absolution period established by the FCC's December 17 order, "the customer is fully protected and the Section 8 notice is of no practical or even incremental value." Ameritech Michigan's comments, p. 14. These LECs therefore claim that the Commission should either reject proposed Section 8 or, at a minimum, impose its requirements solely on submitting carriers.

In contrast, the Attorney General contends that proposed Section 8 is necessary to protect customers and should be adopted in its current form. Because an LEC is generally responsible for executing PIC change requests, she asserts, it is in the best position to know when an end user's telecommunications service provider has been changed. The Attorney General goes on to argue that because LECs usually impose a charge on their end-use customers for executing PIC change requests, it makes sense for the LECs to provide this notification.

The Commission agrees with the Attorney General and finds that Section 8 should be included as part of its anti-slamming procedures. As recognized by the passage of Acts 259 and 260, slamming has become a massive problem and all available steps should be taken to eradicate it. Thus, to avoid situations in which a customer goes months before discovering that its service has been slammed, the Commission concludes that the notification requirement set forth in proposed Section 8 provides a reasonable and necessary adjunct to the truth-in-billing and bill format requirements adopted earlier in this order.

In reaching this conclusion, the Commission finds unpersuasive many of the arguments offered in opposition to Section 8. First, the LECs are incorrect in asserting that they receive no benefit from executing change orders. As alluded to by the Attorney General, Ameritech Michigan assesses an end-use customer $5.00 each time it executes a change order involving the customer's toll services. Other LECs likewise impose FCC-approved fees for making these changes. Second, claims to the effect that the FCC's 30-day absolution period obviates the need for Section 8 overlook an important fact. Specifically, they fail to note that the U.S. Court of Appeals has stayed the portion of the FCC's December 17 order that gave rise to the 30-day absolution period. See, MCI WorldCom v FCC, ___ US App DC ___ (Docket No. 99-1125, May 18, 1999). Third, notwithstanding several parties' assumptions to the contrary, giving a carrier until the end of the billing cycle to notify the customer of a change in its service provider or providers could significantly reduce the effectiveness of the notice. This is because the notice could end up buried deep within a multipage bill or obscured by the inclusion of marketing literature within the same envelope as the bill and notice. In addition, granting the requested

extension could delay the customer's receipt of notification for up to three weeks, during which time an unauthorized carrier could continue providing service to the unsuspecting customer.

Nevertheless, the Commission goes on to find that two revisions should be made to proposed Section 8. The first would be to extend all notification and record retention requirements to the submitting carrier, rather than imposing them solely on the executing carrier. This is due to the fact that in some situations (such as where the customer's service is changed from one switchless reseller to another), the facilities-based LEC or IXC may be unaware of the change and thus unable to provide the notice envisioned under proposed Section 8.[6] By imposing these requirements on submitting carriers and executing carriers alike, the Commission can better ensure that end-use customers are quickly apprised of every change in their designated service providers. The second revision simply entails renumbering this section as Section 7. This is in recognition of the Commission's earlier decision to reject the proposed provisions concerning an IXC's liability for the actions of certain resellers.

The Commission therefore concludes that, as modified above, the proposed subscriber notification provision should be included as a part of its anti-slamming procedures.

LEC Protection Implementation Deadline

Pursuant to the July 28 order, August 17, 1999 was established as the date by which each of Michigan's LECs should begin offering PIC and LEC protection to all customers who request it. As noted earlier, Ameritech Michigan seeks to change that deadline as it pertains to the provision of LEC

[6]As pointed out in the preceding footnote, these notification requirements arise only when the carrier (1) becomes aware of the change request and (2) takes some action to effectuate that request.

protection.[7] Specifically, Ameritech Michigan requests that the Commission grant all LECs until April 2000 to develop and implement their respective LEC protection programs.

In support of this request, Ameritech Michigan notes that unlike PIC protection (which several LECs have offered during the past few years), none of the affected carriers has ever established a program for the provision of LEC protection. It further contends that designing, developing, and implementing an LEC protection program for use on its system will take approximately 2,600 sequenced man-hours, and that updating its local competition ordering interfaces will require an additional 400 hours. Moreover, it asserts, only a limited number of its employees are qualified to perform these tasks. Finally, Ameritech Michigan claims that to avoid potential computer disruptions due to the year 2000 (Y2K) problem, it has established a company-wide moratorium on changes to its computer programs. It therefore argues that instead of the 20 days provided under the July 28 order, LECs should have been given between 7 and 10 months to implement LEC protection.

The only response to Ameritech Michigan's motion comes from MCI WorldCom and states that this IXC "has no objection to the relief requested." MCI WorldCom's response, p. 3. Rather, MCI WorldCom claims that steps taken by Ameritech Michigan over the past several years have led to a situation in which no effective competition exists with regard to local exchange service. As a result, MCI WorldCom recommends expanding on Ameritech Michigan's proposal and abolishing the Commission's LEC protection requirement in its entirety.

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[7]Ameritech Michigan specifically states that it does not seek to modify the implementation schedule for PIC protection. See, Ameritech Michigan's motion for relief from judgement, p. 3, n. 3.

The Commission finds most of Ameritech Michigan's arguments persuasive[8] and concludes that its motion should be granted. Due to the time and effort needed to establish an LEC protection program, extending the deadline until April 3, 2000 is reasonable.

In reaching this conclusion, the Commission rejects MCI WorldCom's recommendation to abolish the LEC protection requirement in its entirety. Although it is true that incumbent LECs like Ameritech Michigan and GTE continue to control an exceedingly large segment of the market for basic local exchange service, areas exist in which one or more competitors are actively providing this service. Moreover, a large number of companies have recently obtained licenses to compete with the incumbent carriers in other locations. The Commission therefore remains convinced that access to LEC protection programs is essential to protect end-use customers from slamming.

The Commission FINDS that:

a. Jurisdiction is pursuant to 1991 PA 179, as amended, MCL 484.2101 et seq.; MSA 22.1469(101) et seq.; the Communications Act of 1934, as amended by the Telecommunications Act of 1996, 47 USC 151 et seq.; 1969 PA 306, as amended, MCL 24.201 et seq.; MSA 3.560(101) et seq.; and the Commission's Rules of Practice and Procedure, as amended, 1992 AACS, R 460.17101 et seq.

[8]The only exception is Ameritech Michigan's contention that concerns about the Y2K problem somehow restrict its ability to make the programming changes necessary to implement LEC protection. This claim seems to conflict with Ameritech Michigan's public statements to the effect that recent changes to its computer system have rendered its systems completely Y2K compatible.

b. Proposed Sections 5, 6(a)-(b), and 8 of the Commission's revised anti-slamming procedures, as amended by this order, should be adopted and added (on a renumbered basis) to the existing procedures approved for use by the July 28 order.

c. Interested parties should file with the Commission, by October 12 and 26, 1999, respectively, comments and reply comments regarding whether the proposed language set forth on page 12 of this order and designated as Section 6(f) should be rejected, revised, or incorporated into the Commission's anti-slamming procedures.

d. Ameritech Michigan's motion for relief from judgment should be granted and the deadline for offering LEC protection should be extended to April 3, 2000.

THEREFORE, IT IS ORDERED that:

A. The amended procedures for changing telecommunications service providers, attached as Exhibit A to this order and designed to ensure that end-use customers are not switched to other service providers without their authorization, are approved and shall remain in effect until further order of this Commission.

B. Interested parties shall file with the Commission, by October 12 and 26, 1999, respectively, comments and reply comments regarding whether the proposed language set forth on page 12 of this order and designated as Section 6(f) should be rejected, revised, or incorporated into the Commission's anti-slamming procedures.

C. Ameritech Michigan's August 17, 1999 motion for relief from judgment is granted and the deadline for offering local exchange carrier protection is extended to April 3, 2000.

The Commission reserves jurisdiction and may issue further orders as necessary.

Any party desiring to appeal this order must do so in the appropriate court within 30 days after issuance and notice of this order, pursuant to MCL 462.26; MSA 22.45.

MICHIGAN PUBLIC SERVICE COMMISSION

/s/ John G. Strand
Chairman

(S E A L)

/s/ David A. Svanda
Commissioner

/s/ Robert B. Nelson
Commissioner

By its action of September 28, 1999.

/s/ Dorothy Wideman
Its Executive Secretary

Any party desiring to appeal this order must do so in the appropriate court within 30 days after issuance and notice of this order, pursuant to MCL 462.26; MSA 22.45.

MICHIGAN PUBLIC SERVICE COMMISSION

____
Chairman

____
Commissioner

____
Commissioner

By its action of September 28, 1999.

____
Its Executive Secretary

In the matter, on the Commission's own motion, to consider revisions to the procedures designed to prohibit switching an end user of a telecommunications provider to another provider without the authorization of the end user.	))))))	Case No. U-11900

Suggested Minute:

> "Adopt and issue order dated September 28, 1999 approving revisions to the Commission's anti-slamming procedures, granting Ameritech Michigan's motion for relief from judgment, and setting a schedule to receive additional comments, as set forth in the order."