

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

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

ORDER

Adopted: May 21, 2003

Released: May 23, 2003

By the Commission:

I. INTRODUCTION AND BACKGROUND

1. In this Order, we clarify certain issues pertaining to the Third Order on Reconsideration and Second Notice of Proposed Rulemaking (Reconsideration Order)1 in the above-captioned proceeding. In the Reconsideration Order, we addressed issues raised in petitions for reconsideration of a series of orders2 implementing section 258 of the Communications Act of 1934 (Act), as amended by the Telecommunications Act of 1996 (1996 Act).3 Section 258 makes it unlawful for any

1 Implementation of the Subscriber Carrier Selection Changes Provisions of the Telecommunications Act of 1996; Policies and Rules Concerning Unauthorized Changes of Consumers' Long Distance Carriers, CC Docket No. 94-129, Third Order on Reconsideration and Second Notice of Proposed Rulemaking, 68 Fed. Reg. 19152 & 19176 (rel. March 17, 2003).

2 Implementation of the Subscriber Carrier Selection Changes Provisions of the Telecommunications Act of 1996; Policies and Rules Concerning Unauthorized Changes of Consumers' Long Distance Carriers, CC Docket No. 94-129, Second Report and Order and Further Notice of Proposed Rule Making, 14 FCC Rcd 1508 (1998) (Second Report and Order), stayed in part, MCI WorldCom v. FCC, No. 99-1125 (D.C. Cir. May 18, 1999) (Stay Order), motion to dissolve stay granted, MCI WorldCom v. FCC, No. 99-1125 (D.C. Cir. June 27, 2000) (Order Lifting Stay). Implementation of the Subscriber Carrier Selection Changes Provisions of the Telecommunications Act of 1996; Policies and Rules Concerning Unauthorized Changes of Consumers' Long Distance Carriers, CC Docket No. 94-129, First Order on Reconsideration, 15 FCC Rcd 8158 (2000). Implementation of the Subscriber Carrier Selection Changes Provisions of the Telecommunications Act of 1996 and Policies and Rules Concerning Unauthorized Changes of Consumers' Long Distance Carriers, CC Docket No. 94-129, Third Report and Order and Second Order on Reconsideration, 15 FCC Rcd 15996 (2000) (Third Report and Order); Errata, DA 00-2163 (rel. Sept. 25, 2000); Erratum, DA 00-292 (rel. Oct. 4, 2000); Implementation of the Subscriber Carrier Selection Changes Provisions of the Telecommunications Act of 1996, Policies and Rules Concerning Unauthorized Changes of Consumers' Long Distance Carriers, CC Docket No. 94-129, Order, 16 FCC Rcd 4999 (2001).

3 47 U.S.C. § 258(a). Telecommunications Act of 1996, Pub. L. No. 104-104, 110 Stat. 56 (1996). We note that, prior to the adoption of section 258 of the Act, the Commission had taken various steps to address the slamming problem; the adoption of section 258 expanded the Commission's authority in this area. See, e.g., Policies and Rules Concerning Unauthorized Changes of Consumers' Long Distance Carriers, CC Docket No. 94-129, Report (continued....)

telecommunications carrier to “submit or execute a change in a subscriber’s selection of a provider of telephone exchange service or telephone toll service, except in accordance with such verification procedures as the Commission shall prescribe.”⁴ Since the release of the *Reconsideration Order*, several parties have requested that the Commission clarify a portion of that order concerning the carrier change verification responsibilities of local exchange carriers (“LECs”).⁵

2. Prior to the adoption of the *Reconsideration Order*, in the *Second Report and Order* the Commission found that all changes to a subscriber’s preferred carrier, including local exchange, intraLATA toll, and interLATA toll services, must be authorized by the subscriber and verified in accordance with the Commission’s procedures.⁶ In addition, the Commission found in the *Second Report and Order* that its rules concerning customer verification of preferred carrier change requests should apply to “in-bound” as well as “out-bound” calls, stating that “it serves the public interest to offer consumers who initiate calls to carriers the same protection under the verification rules as those consumers who are contacted by carriers.”⁷ However, the Commission at that time declined to require verification of long distance carrier changes in instances when a customer contacts a LEC directly to effect the change.⁸ The Commission noted that, under those circumstances, the LEC is not providing interexchange service to the subscriber.⁹

3. In the *Reconsideration Order*, however, we recognized that, since the adoption of the *Second Report and Order*, “many LECs have become (or plan to become) long distance service providers.”¹⁰ We stated that, given the proliferation of customers that are now or may soon be served by LECs that also provide interexchange services, it was necessary to require verification of long distance carrier change requests that occur when a customer initiates a call to a LEC.¹¹ The Commission stated that such verification was necessary in order to deter slamming and as such furthered the goals of section 258.¹²

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and Order, 10 FCC Rcd 9560 (1995), *stayed in part*, 11 FCC Rcd 856 (1995); *Policies and Rules Concerning Changing Long Distance Carriers*, CC Docket No. 91-64, 7 FCC Rcd 1038 (1992), *reconsideration denied*, 8 FCC Rcd 3215 (1993); *Investigation of Access and Divestiture Related Tariffs*, CC Docket No. 83-1145, Phase I, 101 F.C.C.2d 911, 101 F.C.C.2d 935, *reconsideration denied*, 102 F.C.C.2d 503 (1985).

⁴ 47 U.S.C. § 258(a).

⁵ See *Ex Parte* letter from BellSouth, Qwest, SBC Telecommunications, Inc. and Verizon (“Joint LECs”), filed May 2, 2003 (“Joint LEC Letter”).

⁶ *Second Report and Order*, 14 FCC Rcd 1508, 1557.

⁷ *Id.* at 1547.

⁸ *Id.* at 1565.

⁹ *Id.*

¹⁰ *Reconsideration Order*, 68 Fed. Reg. 19152, ¶ 91.

¹¹ *Id.*

¹² *Id.* We note that, in the *Reconsideration Order*, we retained our prohibition on executing carrier “re-verification,” e.g., a LEC may not require an additional verification by the subscriber after a carrier submits a carrier change to a LEC (as opposed to a customer seeking a carrier change by calling a LEC directly to request the change). We stated that under such circumstances, the submitting carrier and the customer will have already completed the verification procedures required under our rules, and any LEC-mandated customer re-verification would be redundant and create unnecessary impediments to carrier changes. *Reconsideration Order*, 68 Fed. Reg. 19152, ¶ 91.

II. DISCUSSION

4. BellSouth, Qwest, SBC Telecommunications, Inc. and Verizon (“Joint LECs”) seek clarification that the Commission, in the *Reconsideration Order*, “merely intended to confirm that customer calls to the LEC to make a carrier change benefiting the LEC or, more specifically, its long distance affiliates, must be verified pursuant to existing Commission verification rules.”¹³ The Joint LECs ask the Commission to clarify that the verification rules do not apply in situations when a subscriber asks a LEC to effect a change to their presubscribed carrier, and the new carrier is neither the LEC itself nor an affiliate of the LEC.

5. As noted above, in the *Second Report and Order*, the Commission initially excluded from the verification rules requests for long distance carrier changes by customers that contact LECs directly, because “the LEC is not providing interexchange service to [the] subscriber.”¹⁴ However, in the *Reconsideration Order*, we stated that “[d]ue to the changes in the competitive landscape that have come to fruition since the adoption of the *Second Report and Order*, and based on our experiences therewith, we now find it necessary, as with other in-bound carrier change calls, to require verification of carrier change requests that occur when a customer initiates a call to a LEC.”¹⁵ We clarify here that such verification by a LEC is required only when the carrier change involves the LEC or an affiliate of the LEC. In-bound customer requests to change long distance carriers, made directly to a LEC, remain exempted in cases where the LEC or its long distance affiliate is not the subject of the long distance carrier change. We agree with the Joint LECs that the *Reconsideration Order* requires verifications of carrier changes involving the LEC or its affiliates. This is consistent with our statement in the *Second Report and Order* that our decision to apply the verification rules to certain inbound calls was especially necessary “as carriers begin combining services to market to consumers, such as intraLATA and interLATA toll services.”¹⁶

III. ORDERING CLAUSES

6. IT IS ORDERED that, pursuant to sections 1, 4(i), 258 and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. § 151, 154(i), 258 and 303(r), this Order is hereby adopted.

7. IT IS FURTHER ORDERED that this Order is effective upon release.

IV. FURTHER INFORMATION

8. To request materials in accessible formats for people with disabilities (braille, large print, electronic files, audio format), send an e-mail to fcc504@fcc.gov or call the Consumer & Governmental Affairs Bureau at (202) 418-0531 (voice), 202 418-7365 (tty).

FEDERAL COMMUNICATIONS COMMISSION

Marlene H. Dortch
Secretary

¹³ See Joint LEC Letter at 2.

¹⁴ *Second Report and Order*, 14 FCC Rcd 1508, 1565.

¹⁵ *Reconsideration Order*, 68 Fed. Reg. 19152, ¶ 91.

¹⁶ *Second Report and Order*, 14 FCC Rcd 1508, 1549.