

comments

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May 8, 2001

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Honorable Janet H. Deixler
Secretary
New York State Public Service Commission
Three Empire State Plaza
Albany, New York 12223-1350

Re: Case 00-C-0897 and 00-C-0188

Dear Secretary Deixler:

Attached please an original and fifteen copies of Verizon New York Inc.'s comments on PIC freeze administration issues and its response to the Commission's March 23, 2001 Order to Show Cause.

Respectfully submitted,

Joseph A. Post (m.s.)

cc: Elizabeth Liebschutz, Esq.
Service List (BY E-MAIL OR FAX, AND OVERNIGHT SERVICE)



**STATE OF NEW YORK
PUBLIC SERVICE COMMISSION**

**Complaint of AT&T Communications of
New York, Inc. Against Bell Atlantic –
New York Concerning Bell Atlantic – New
York’s Management of the Primary In-
terexchange Carrier (PIC) Program**

Case 00-C-0897

**Proceeding on Motion of the Commission
to Examine the Migration of Customers
Between Local Carriers**

Case 00-C-0188

**VERIZON NEW YORK INC.’S
COMMENTS ON PIC FREEZE ADMINISTRATION ISSUES
AND RESPONSE TO THE ORDER TO SHOW CAUSE**

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May 8, 2001

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Verizon New York Inc. (“Verizon”) submits this response to the Commission’s March 23rd “Notice Soliciting Comments” on Verizon’s PIC freeze program¹, and to its order directing Verizon to show cause “why it should not immediately make available [information on a customer’s freeze status] to all carriers on the same basis that the information is available to Verizon’s own customer service or sales personnel”.²

Quite simply, PIC freeze administration in New York is not broken and it does not need to be fixed. The proposals of other carriers to impose burdensome and consumer-unfriendly “remedies” such as “super-TPV” and third-party freeze administration should be rejected.

¹ Cases 00-C-0897 and 00-C-0188, “Notice Soliciting Comments” (issued March 23, 2001) (the “Notice”).

² Cases 00-C-0897, *et al.*, “Order to Show Cause, Requesting Comments and Closing Cases” (issued and effective March 23, 2001) (the “Order”).

As this Commission made clear in its recent "Notice of Apparent Liability"³, consumers in New York are at risk of slamming for local, intraLATA toll and long distance service. The purpose of allowing consumers to freeze the carrier selection that is in place is simply to protect them from that risk. The State's current freeze administration system provides an important safeguard against slamming, and the Commission should not support any effort that might weaken that safeguard.

Verizon and the Commission have already taken measures to ensure that the PIC freeze program does not discriminate among carriers, while continuing to provide adequate security to consumers. Since 1999, Verizon's freeze administration program has relied primarily on an automated system (the "VRU") that automatically records customer freeze and unfreeze requests without any need for intervention by Verizon sales personnel.⁴ This alternative was adopted because an automated system could streamline the freeze administration process while eliminating the involvement of Verizon sales representatives that was perceived to be adverse to the interests of competing carriers. Yet inexplicably, competing carriers have vigorously opposed the VRU, and have instead pressed for less reliable alternatives (such as "Super TPV") that would eliminate the protection against slamming that PIC freezes were intended to provide.

For the reasons set forth below, the Commission should adhere to its original decision to adopt the VRU as the standard for PIC freeze administration in New York. Indeed, it

³ Case No. 01-C-0610, "Notice of Apparent Liability for Slamming" (issued May 2, 2001) (the "*Z-Tel Notice*").

⁴ Verizon's proposal to implement an automated system was accepted by the Commission in December 1998 in Cases 28425, *et al.*, "Order Adopting New York Telephone Company's IntraLATA Freeze Plan With Modifications" (issued and effective December 23, 1998) (the "*VRU Order*").

should extend the benefits of the VRU-administered freeze process to local service as well as toll calling. The alternatives and modifications to the freeze administration process proposed by the IXCs and CLECs — and their continuing reluctance to afford consumers the same protection against local slamming as they currently enjoy with respect to inter- and intraLATA slamming — should be decisively rejected. With respect to its Order to Show Cause, the Commission should find that Verizon does make freeze status information available to IXCs on a non-discriminatory basis, and that no further action is required in this respect.⁵

I. THERE IS A CONTINUING NEED FOR THE CUSTOMER PROTECTION THAT THE VRU-ADMINISTERED PIC FREEZE OPTION AFFORDS

Implicit in the continuing IXC/CLEC posturing on PIC freeze administration issues is the inescapable conclusion that these carriers want the PIC freeze process fatally weakened (such as through the “Super TPV” process discussed below) or else eliminated altogether. This desire is evident not only in their continuing opposition to the simple and secure VRU system, but in their ongoing attempts to forestall the introduction of a local PIC freeze option.

However, the need for a strong and effective PIC freeze system is greater than ever. Verizon received over 7,000 interLATA and intraLATA slamming complaints during 2000, and the complaint rate has increased sharply in 2001. (The complaint figures for January, February, and March were 892, 693, and 909, respectively, for an annualized complaint level of almost 10,000.) The media regularly provide anecdotal evidence that slamming continues and con-

⁵ The Order and Notice raise a number of issues that have already been briefed, either in connection with Verizon’s filing of a proposed local freeze tariff or in connection with AT&T’s PIC administration complaint. Accordingly, some of the following comments repeat, in modified form, comments that we submitted in those two proceedings.

sumes substantial federal and state resources to investigate and punish (as evidenced by reports of slamming penalties assessed by state and federal regulators).⁶ State Attorney General Eliot Spitzer states on his agency's web site that "unfortunately, the telecommunications marketplace has become a fertile breeding ground for unsavory con-artists who prey on unsuspecting consumers. Thousands of New Yorkers have complained to my office that they have opened their monthly phone bill and had charges billed by an unfamiliar carrier."⁷

PIC freezes provide simple and highly effective means by which a customer can protect him- or herself against slamming. Indeed, freezes are recommended as protection against slamming on the web sites of both this Commission and the Attorney General.⁸ The FCC recognized the benefits created by freeze options in its recent *Slamming Order*.⁹ The continuing need and strong customer desire for freezes is demonstrated by the vigorous demand for the option. Currently, some 3.3 million lines are frozen on an interLATA basis in New York and slightly over 4 million lines are frozen on an intraLATA basis.

Opposing carriers can offer no sound reason for eliminating or weakening the current

⁶ E.g., Henry Gilgoff, "Regulators Impose Steep Slamming Fines on MCI", *Newsday*, July 2, 2000, at F3 (FCC settlement); "WorldCom Sued Over 'Illegal Tactics'", *Newsday*, July 21, 2000, at A57 (discussing suits filed by six states); "FCC Imposes \$520,000 Slamming Fine Against AT&T", FCC News Release, April 17, 2001; David Gram, "Company Fined and Ordered to Make Refunds in Long-Distance Switches", AP Wire Story, May 11, 2000; "Qwest Agrees to \$250,000 Fine", AP Online, December 12, 2000; Steve Gold, "Qwest pays \$1.5 Million for Slamming", *Newsbytes*, July 24, 2000 (FCC settlement).

⁷ <http://www.oag.state.ny.us/consumer/tips/slamming.html>.

⁸ See *id.* (Attorney General); <http://www.dps.state.ny.us/slamming.htm> (Commission).

⁹ *Implementation of the Subscriber Carrier Selection Changes Provision of the Telecommunications Act of 1996*, CC Docket No. 94-129, Second Report and Order and Further Notice of Proposed Rulemaking (rel. December 23, 1998), ¶¶ 112, *et seq.*

PIC freeze process. Most of their arguments boil down to the claim that freezes interfere with their efforts to win customers (either from Verizon or from other carriers). But that criticism misses the point. A customer who elects to impose a freeze is saying precisely that he or she does not want the carrier change process to be so "simple," "easy," and "seamless" that it can be done without the customer's participation and active consent. That decision should be respected. To say — as IXCs and CLECs frequently do — that the availability of a freeze option inconveniences carriers who covet the customer's business is to miss the point that it is the *customer's* preferences that should govern. These carriers appear to forget who the intended beneficiary of competition really is: not carriers and their shareholders, but customers.

Thus, the Commission should firmly reject any proposal that would weaken or eliminate the needed and desired protections that the freeze process affords to customers.

II. PIC FREEZES SHOULD BE AVAILABLE FOR THE CUSTOMERS' CHOICE OF LOCAL AS WELL AS TOLL CARRIERS

For precisely the same reasons that the freeze process is beneficial in the area of inter- and intraLATA toll services, it would be equally beneficial with respect to local service. Slamming is a serious problem for all telecommunications services and consumers deserve to be protected from slamming for all of their calling. The Commission itself notes that the Department of Public Services' Office of Consumer Services received 316 local slamming complaints for the first quarter of 2000 and 773 such complaints between January and October of that year.¹⁰ A recent article in the publication *tele.com* stated that

¹⁰ Order at 22 n. 13.

Getting a handle on the size of local slamming is hard because of the reporting mechanisms, but it's probably marginal compared to the long-distance market. The Yankee Group (Boston) says it probably affects no more than 4 percent of the population. Still, anecdotal evidence suggests that local slamming complaints are on the rise as more competitive providers offer service bundles.¹¹

Accepting the Yankee Group's low-ball estimate of "4 percent of the population" demonstrates that there is a significant problem since there are more than 10 million local access lines in service in Verizon's New York service area. As noted previously, the Commission just recently found numerous apparent instances of local slamming by the CLEC Z-Tel.¹²

In light of this risk to local consumers, it is not surprising that local freeze options are in effect in 13 out of the 14 states in the former Bell Atlantic footprint — this State is the only exception. Verizon's local freeze tariff was filed some 16 months ago,¹³ yet the Commission has still not allowed it to go into effect in spite of the evidence of need.

It cannot reasonably be argued that such consumer protections — already in practice in many other states — would be contrary to the public interest. Issues concerning local PIC freezes were addressed comprehensively in briefs filed in Case 00-C-0188 in early 2000. CLECs argued in that proceeding that local freezes were unnecessary and anticompetitive. Those arguments were refuted by Verizon and we need not repeat here our detailed arguments on that issue. We note however, that: (a) the available statistics belie the CLECs' claim that

¹¹ Brian Washburn, "Frozen Out of Competition? — Emerging Providers Protest Antislammng Measure" (October 16, 2000) (available on LEXIS).

¹² *Z-Tel Notice, supra*.

¹³ The proposed tariff amendments were filed on January 24, 2000. *See Order* at 20.

local slamming is not a real or serious problem; (b) the problem is likely more serious in New York than elsewhere because of the State's significant head start in fostering local competition; and (c) a freeze option would not make it unduly complicated for a customer to change carriers, any more than it does so in the inter- or intraLATA markets.

The Commission has withheld approval of a local freeze tariff solely because it has not yet resolved issues concerning freeze administration in general.¹⁴ However, in light of the risk to consumers, immediate approval of the local PIC freeze tariff is warranted, particularly since the Commission Order concedes that it found no basis for concluding that the freeze process is being administered in an improper manner. Just as the Commission would not consider *eliminating* the PIC freeze in the inter- and intraLATA toll markets while freeze administration issues are being resolved, so also it should not delay in *adopting* such a freeze for local service. If and when the Commission concludes that modifications to the freeze administration process are appropriate — and we repeat that we believe that no such conclusion would be warranted — then such modifications can be applied to all PIC freeze processes.

III. THE VRU SHOULD BE RETAINED AS THE PRINCIPAL METHOD FOR IMPLEMENTING AND VERIFYING PIC FREEZES AND UNFREEZES

A. OVERVIEW OF THE VRU

Verizon proposed the VRU in response to the general recognition that the “live” three-way call procedure that had previously been used to process PIC unfreeze requests was unsatisfactory. From Verizon's perspective, the procedure, in which a customer called a service

¹⁴ Order at 23.

representative with an interexchange carrier representative on the line, was inconvenient for the customer, wasteful of service representative time, and rife with opportunities for friction between interexchange carrier personnel and Verizon personnel. Accordingly, when the Commission solicited comments on possible alternatives to three-way calls, we recommended the elimination of the procedure and its replacement with an automated system. The Commission accepted the proposal in the *VRU Order*¹⁵, and it was subsequently endorsed by the FCC as well.¹⁶

As we noted in our comments in response to AT&T's complaint, among the many benefits of the VRU are the fact that it is easy to access and easy to use; it protects the user by verifying his/her identity; it allows separate freezes and unfreezes for inter- or intraLATA service, or both; it allows freeze/unfreeze orders to be processed without human intervention; and it automatically generates an electronic "audit trail" confirming that the customer requested the change in freeze status.

It bears emphasis that the primary purpose of the VRU was to get sales people out of the loop; *i.e.*, to enable customers (alone or in conference with their chosen carriers) to freeze and unfreeze PICs themselves, simply, automatically, and without any need for a conversation

¹⁵ "The freeze administration method that is ultimately implemented must be secure, verifiable, and must not place unreasonable requirements on the customer. The automated 800 number system appears to most reasonably meet all of these criteria. The complaint that a NYT representative may intervene if the automated system does not work properly would be equally true for any freeze system that could be devised. The merit of NYT's proposed system is that it is likely to minimize customer contacts with NYT representatives." *VRU Order* at 7.

¹⁶ *Implementation of the Subscriber Carrier Section Changes Provisions of the Telecommunications Act of 1996: New York Telephone Company, d/b/a Bell Atlantic - New York Request for Waiver*, CC Docket No. 94-129, Order (rel. August 6, 1999). In paragraph 8 of that Order, the FCC states "We find, therefore, that Bell Atlantic's VRU system appears to be an effective method of administering and verifying preferred carrier freezes."

with a Verizon sales representative. The VRU can thus help put an end to the seemingly interminable regulatory bickering and fingerpointing over whether Verizon's service representatives had, or had not, engaged in prohibited "marketing" on a live three-way call. The VRU thus was, among other things, a direct response to the complaints that IXCs had leveled against Verizon over the years.

B. THE USE OF THE SIX-DIGIT PERSONAL BILL CODE IS A REASONABLE MEASURE TO ASSURE THE SECURITY OF VRU TRANSACTIONS; HOWEVER, VERIZON IS WILLING TO CONSIDER ALTERNATIVE MEASURES

Verizon utilizes the six-digit code printed on all customer bills as the basis for authenticating PIC freeze/unfreeze requests placed through the VRU. This aspect of the operation of the VRU has received considerable criticism, on the grounds that many customers will purportedly be unable to locate a recent phone bill.

We take it as a given that any freeze/unfreeze process requires some form of authentication. Indeed, authentication of an unfreeze request is even more essential than authentication of other types of service changes (such as addition or deletion of a vertical feature), since unfortunate experience has shown that there is no shortage of carriers willing to exploit any available loophole in order to slam a customer's account. The Commission is well aware of the deceptive practices used by slammers. It is reasonable to expect that the sales representatives of carriers that would engage in such deceptions would not hesitate to call the VRU and unfreeze a customer's line prior to submitting a PIC change order. The need for a simple, yet secure verification process is clear.

Moreover, there is no obvious alternative to the six-digit code. The use of ANI information would require customers to call from home, and would require multiple calls for multiple

line customers. This would be a particular inconvenience for multi-line business customers. The Commission itself recognized the validity of these concerns in supporting the Company's application to the FCC for a waiver of its ANI requirement for "electronic verification;" the FCC recognized these concerns by granting the waiver.¹⁷

Various parties have proposed the use of the customer's Social Security Number ("SSN"). In addition to the obvious privacy concerns discussed below, Verizon does not have SSNs recorded in its systems for many of its customers.¹⁸ Any authentication system would be useless if the customer were permitted to provide his or her SSN at the time a PIC freeze or unfreeze request is made; thus, an SSN database would have to be populated in advance. This in turn would require a lengthy and burdensome campaign to obtain this information from each customer. Since many customers would unquestionably not respond to an initial mail request, expensive and time-consuming follow-up would be required. Moreover, collection of SSNs is intrusive and increasingly resisted by privacy-minded customers. Many privacy-related web sites advise customers not to give their SSNs to anyone.¹⁹ Indeed, one of those sites recommends that "if you don't like [a company's] policies" concerning SSNs, "find another com-

¹⁷ There are also technical difficulties involved in equipping the VRU with an ANI capability.

¹⁸ Although Verizon requests SSN information for purposes of a credit check, customers are not required to provide their SSNs to establish accounts, and many choose not to do so. Business customers do not even have SSNs.

¹⁹ See, e.g., <http://www.cpsr.org/cpsr/privacy/ssn/ssn.faq.html>; <http://www.aclu.org/library/ibpriv4.html>; http://www.epic.org/privacy/ssn/testimony_0500.html; and <http://www.privacyrights.org/fs/fs10-ssn.htm>.

pany”²⁰ It is unfair that Verizon should be stigmatized by its customers for its administration of the PIC freeze process.

In addition, some carriers, or telemarketers acting on their behalf, may have a customer’s SSN even if they do not have the customer’s authorization to switch carriers. Indeed, in the *Z-Tel Notice*, the Commission, in the course of describing numerous cases of apparent slamming, noted that in one of them ‘Z-Tel [the carrier] maintained . . . that the complainant authorized the switch, and had used her name, address and social security number for verification.’”

Verizon supports the continued use of the six-digit code. However, if the Commission believes that the code presents a problem, we would be willing to consider providing customers who cannot find their six-digit codes with an alternative in which the VRU would call them back at their home to continue the transaction without use of the six-digit code. This would maintain the security of the transaction, since the automated call would be placed to the line that the customer seeks to freeze or unfreeze. This would provide a relatively simple alternative safeguard that would greatly reduce the percentage of people who are unable to use the VRU. We stress that we do not believe that such a system is necessary and that we have not yet evaluated its feasibility and cost. However, it is clearly a less burdensome and more beneficial alternative than any attempt to capture all customers’ SSNs.²¹

²⁰ See <http://www.cpsr.org/cpsr/privacy/ssn/ssn.faq.html>.

²¹ The Order prohibits Verizon, “when selling long distance services”, from “provid[ing] the customer with the VRU security code or otherwise utiliz[ing] its access to the account number in a way that its competitors cannot”; and Verizon does not do so. Order at 10.

C. THE VRU CAN PROCESS MULTIPLE TELEPHONE NUMBERS IN A SINGLE CALL

In its initial complaint, AT&T alleged that the VRU could not handle multiple numbers in a single call. The Commission correctly concluded that this claim was “not well-founded.”

Verizon has provided a VRU script in the form of a flowchart, which shows that at the end of the process, the customer is given the option to enter another telephone number. Up to five numbers can be processed in a single call. Moreover, each of those numbers can be BTNs²², and the VRU would be able to freeze or unfreeze *all* of the numbers within each of the five BTNs, if the customer so desires.

The fact that the VRU can handle multiple numbers with a single call can easily be confirmed by Staff — or, for that matter, by AT&T — through a test call.

D. THE VRU IS NOW ABLE TO SEPARATELY FREEZE OR UNFREEZE INDIVIDUAL DIRECTORY NUMBERS WITHIN A BTN

Complementing the customer’s ability to handle all of the numbers within a BTN through a single VRU request is the ability to *separately* handle individual directory numbers within a BTN. For example, a customer may wish to place a freeze only on a single line within a BTN group. The VRU now has this capability.²³ When a VRU user enters the number of a multi-line account, the following announcement is made:

The telephone number you entered has multiple telephone numbers associated with it. To freeze or unfreeze all the telephone numbers associated with this account, press 1. To freeze or unfreeze the telephone number

²² A BTN (“billed telephone number”) includes all of the lines billed to a particular account. For a business account, there may be several (or several thousand) directory numbers billed to a single BTN.

²³ The capability was added on October 20, 2000.

you entered, press 2. If you want to speak with a service representative, press 0. To repeat these options, press star.

Of course, this new option makes the VRU even more convenient and beneficial to the consumer. Of equal importance, the development of this feature illustrates Verizon's efforts to extend the reach of the VRU and thus to further limit the need for service representative contact during a freeze/unfreeze call. This further undermines the IXC/CLEC claims that Verizon is permitting or encouraging improper interference by its representatives with the freeze/unfreeze process.

E. VERIZON'S POLICIES PROVIDE CUSTOMERS WITH REASONABLE "EXIT OPTIONS" FROM THE VRU; HOWEVER, CUSTOMERS AND IXCS SHOULD NOT BE ENCOURAGED TO RESORT TO THE "LIVE" THREE-WAY CALL PROCESS

Verizon directs its customers to use the VRU for PIC change orders. Customers who refuse, or are unable, to use the system are handled by a service representative. We believe that this practice should continue, and that the Commission should direct carriers *not* to encourage their customers to refuse to use the VRU. Since this issue was discussed in detail in Verizon's April 23 Petition for Reconsideration, we will not address it further here.

IV. THE CONCERNS THAT HAVE BEEN EXPRESSED ABOUT VERIZON'S ADMINISTRATION OF THE PIC FREEZE PROCESS ARE UNWARRANTED

The premise of the complaints that gave rise to this proceeding is that there is a freeze administration problem that needs to be fixed. However, the Commission's inquiry has thus far failed to produce any evidence of such a problem, and the long list of "what ifs" and "you never knows" submitted by the IXCs and CLECs fail to warrant any action, since multiple unsupported and implausible allegations still do not add up to a single substantiated one. Since

August 1999, with over half a million transactions, not a single end-user customer has complained to Verizon about the VRU. The concerns that IXC's and CLECs have expressed about the implementation of the VRU-based system of PIC freeze administration are totally unwarranted, and should not drive unnecessary and counterproductive changes in the current system of PIC administration.

A. VRU "FALL OUTS" ARE PROCESSED IN A REASONABLE MANNER

As already noted, customers who exit from the VRU, because they are unwilling or unable to use the system, are placed in a service representative queue.²⁴ There is no special queue for this purpose, and such customers are thus treated on a par with all other customers seeking the representatives' attention. There is thus no basis for any claim of discrimination in the handling of VRU "fall-outs". As the Commission correctly noted:

Because these calls are handled in the same manner as calls from Verizon's retail customers, the IXC's and their customers receive parity in treatment. The service quality requirements in Verizon's Performance Regulatory Plan (PRP) govern how quickly Verizon answers its calls (e.g., percent of calls answered, average speed of answer).²⁵

Thus, no action is warranted on the IXC's' claims that Verizon representatives do not handle unfreeze requests rapidly enough.²⁶

²⁴ Outside of normal service center business hours, the customer is instructed to call during normal business hours. Generally, consumer service representatives are available 8 AM to 8 PM, Monday through Friday, and 8 AM to 4 PM on Saturday. The VRU itself currently operates from 6 AM to 9 PM, Monday through Saturday.

²⁵ Order at 12.

²⁶ Both this Commission and the FCC have previously rejected requests that specific intervals be set for processing PIC administration requests. See Case 28425, *et al.*, "Order Directing New York Telephone Company to File By [*sic*] Revised Tariffs Implementing IntraLATA Presubscription" (issued and effective December 1, 1995); *Implementation of the Subscriber Carrier Selection Changes Provisions of the Tele-*
(continued . . .)

Nevertheless, the Order suggests that something more than parity may be required here, and solicits comments on “whether PIC freeze calls should be handled separately from other service matters, by representatives who receive no financial incentive to sell Verizon services.”²⁷ However, setting up such a separate, dedicated representative force would be costly and burdensome for Verizon, would impair the efficient use of Verizon’s force of service representatives, and would divert resources that should be devoted to other equally important customer care issues. Absent any finding of pervasive obstructionist conduct by Verizon’s representatives — and no credible evidence of such conduct has been submitted — there is no justification for imposing such costs only on one competitor.²⁸ Moreover, although representatives do receive sales incentives, they are also subject to methods and procedures that forcefully and unambiguously prohibit marketing on freeze/unfreeze calls, and to discipline for violations of those methods and procedures.

The separate-representatives proposal should be rejected.

B. VERIZON’S POLICIES PROHIBIT MARKETING IN THE COURSE OF HANDLING FREEZE/UNFREEZE REQUESTS

In connection with its freeze administration complaint, AT&T provided survey results that purportedly demonstrated that Verizon representatives engage in marketing during three-

(... continued)

communications 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 Rulemaking, 14 FCC Rcd 1508 (rel. December 23, 1998), ¶ 104.

²⁷ *Id.*

²⁸ If it were adopted — and it should not be — the associated costs should be borne by the carriers who requested this extraordinary measure.

way unfreeze calls, contrary to the Commission's direction. Verizon discussed AT&T's survey at length in its comments on the AT&T complaint, and we will not repeat that discussion here. Suffice it to note that the Commission correctly found that "AT&T's surveys do not provide a sufficient basis for concluding that improper cross-selling occurred."²⁹

The Commission nevertheless "urge[d] parties to address the procedures for three-way calling when commenting on alternatives to the PIC freeze program".³⁰ However, Verizon's procedures already prohibit marketing on such calls; we do not believe any new or additional policies are required. We will address this issue further in response to any proposals that may be submitted by other parties.³¹

²⁹ Order at 14.

³⁰ *Id.*

³¹ In the Order, the Commission points out that "[c]ross-selling by Verizon on three-way calls is a violation of our prior orders. Therefore, we take issue with Verizon's attempts to portray the incidence of cross-selling, if it did occur, as insignificant". (Order at 14 n. 9) The Commission's comment is based on a misunderstanding of Verizon's response to the AT&T complaint. In that response, Verizon stated:

We do not, of course, mean to say that a small level of marketing activity on three-way calls is acceptable. BA-NY takes the Commission's prohibition of such activity very seriously, and has on several occasions reminded its service representatives of that importance of the no-marketing rule. Nor, of course, do we regard any rudeness to customers as appropriate. Nevertheless, AT&T's surveys are clearly deeply flawed, and even if taken at face value do not suggest anything more than a few isolated incidents; certainly, nothing that would warrant the extravagant remedies that AT&T has proposed.

With all due respect, this statement hardly suggests that a violation of the Commission's orders, no matter how infrequent, would be "insignificant".

C. THERE IS NO BASIS FOR THE CLAIM THAT VERIZON IS "JAMMING" CUSTOMERS BY FREEZING THEIR LINES WITHOUT THEIR CONSENT

In a number of pleadings, IXCs and CLECs have suggested that the fact that more lines are frozen in New York on an intraLATA basis than on an interLATA basis gives rise to concerns that Verizon is freezing lines without customer consent.³²

Verizon responded to this allegation by showing that the current freeze levels could easily be accounted for as the result of (a) the Commission's initial decision to freeze on an intraLATA basis all lines that were frozen on an interLATA basis at the time of IIP (intraLATA pre-subscription) implementation; and (b) the existence of a higher churn rate for interLATA carrier choice than for intraLATA carrier choice. We have previously presented detailed evidence supporting this explanation, which need not be repeated in full here.

However, since the number of inter- and intraLATA freezes were identical at ILP implementation, current differences are likely the result of differences in the two services. It is reasonable to assume that customers making PIC changes on frozen lines would not necessarily bother to re-freeze the line in every case after the freeze is lifted and the change order is processed. Thus, carrier churn would result in either a reduction in the number of frozen lines or, against the background of new customers freezing their lines, a slower increase in the number of frozen lines. Since there is a higher level of interLATA carrier churn than intraLATA carrier churn, the higher level of intraLATA frozen lines is not surprising.³³

³² The argument was first put forward at a time when Verizon was a competitor in the intraLATA but not in the interLATA market.

³³ Since customer preferences and predilections for changing carriers and freezing their lines will change over time, in part in response to carrier marketing programs, one would not expect these changes to be uni-
(continued . . .)

Of course, the data that we submitted cannot prove that this is the sole explanation for the differential freeze levels currently observed, but it disproves the assertion that that differential is inherently suspicious or indicative of nefarious activity. More fundamentally, we have confidence, as the Commission should have, in the integrity of the process by which PIC freezes are verified and recorded. The current procedure, which of course relies on the VRU to the maximum extent possible, does not provide opportunity for mischief. Indeed, no one has provided a plausible explanation of how Verizon *could*, in an automated environment, “jam” customers by altering their freeze status without consent.

The Commission properly concluded that there was no proof of the allegation that customers’ intraLATA PIC choices have been frozen without their authorization. Indeed, the Order specifically notes that “[i]t is noteworthy that the Department has not received a single customer complaint alleging such unauthorized activity”.³⁴ The Commission concludes by stating that it is continuing to explore the matter. We of course will cooperate with any such exploration. The Commission should not, however, change current freeze administration practices on the basis of such thin and unsubstantiated allegations.

(. . . continued)

form over time. Periods of trends in the opposite direction, such as are referred to by the Commission at page 16 of the Order, would thus not be surprising.

³⁴ Order at 17.

D. VERIZON DOES NOT DISCRIMINATE AGAINST UNAFFILIATED CARRIERS

The IXCs claim — again without any real basis — that Verizon is discriminating between them and Verizon's long distance affiliates in matters related to freeze administration. Like their other allegations, these claims are totally unfounded.

1. Processing of Freeze/Unfreeze Requests

All customers who wish to freeze and unfreeze a line are referred to the VRU, subject to the exceptions discussed above for customers who are unable or who refuse to use the automated system. Verizon's service representatives will *not* unfreeze a line for a frozen customer seeking to switch interLATA service to Verizon's long-distance affiliate (or to switch the customer's intraLATA service to Verizon), unless one of those exceptions exists.

The only evidence to the contrary that has been offered is a claim made by WorldCom that in a single test call, a Verizon service representative supposedly unfroze an account for a customer switching to the long distance service offered by Verizon's affiliate. As we've already pointed out, it is significant that the IXCs were only able to come up with one alleged instance of this supposed practice, despite the numerous test calls that they apparently made. Moreover, it is impossible to evaluate the significance of this case without further details, which have not been forthcoming from WorldCom. For example, the situation may well have been one falling within one of the exceptions to the VRU requirement that are set forth in Verizon's methods and procedures, and which have already been described.

2. Access to Freeze/Unfreeze Information

Initially, we note that there is no legal requirement that Verizon provide IXCs with any information concerning the freeze status of its customers' lines.³⁵ Moreover, despite the IXCs' repeated efforts to exploit this issue, there is no real need for this information; the grievance is a purely artificial one. Customers are made aware of the freeze status of their lines through annual notices. And, as we have repeatedly stated, a carrier that is concerned about the freeze status of the line can simply initiate a three-way call to the VRU with the customer on the line, and the customer can use the VRU to place an unfreeze request. If the line was already unfrozen, the request will have no effect; if it was frozen, then it will promptly be unfrozen. In either case, the carrier can then submit a PIC change order on the following day through the normal electronic interfaces available for that purpose. The carrier's unsupported claims that absent detailed knowledge about all lines they will be forced to make multiple calls in order to change a customer's PIC are simply false.

Nevertheless, Verizon does not discriminate against unaffiliated carriers in the provision of freeze information. As Verizon explained in its response to AT&T's complaint, in November 1999 Verizon introduced the "XEA" system ("Xpress Electronic Access") in New York. The principal purpose of XEA was to provide a system through which carriers would be able to transmit their PIC change requests directly to Verizon's switches. However, the system also provides carriers that use it with real time access to reports that list, among other information, the freeze status of any given line (consistent with customers' expectation of privacy, the system

³⁵ See *Slamming Order* ¶ 133.

does not disclose information on non-published/non-listed lines that are not PIC'ed to the requesting carrier).³⁶ XEA is easily accessible via the World Wide Web.³⁷

At the time that AT&T's original complaint was being considered, firewall problems had arisen that apparently interfered with AT&T's access to the system. These problems have been resolved, as Verizon has confirmed with AT&T.

AT&T has complained that it is too expensive to use XEA to get information on *all* customers. However, the purpose of providing the information is to facilitate the freeze/unfreeze/PIC change process. Verizon should not be required to provide this information in bulk, for free, simply so that IXCs can troll through the records looking for "easy sells."³⁸ The fact that Verizon provides automated real-time access to XEA and the VRU obviates any need on the IXC's part to set up a comprehensive database in advance simply for the purpose of processing customer orders.

The options described above are the ones available to Verizon's long-distance affiliates. When those affiliates use the services, they pay the same \$0.06 per record that unaffiliated carriers pay. Additionally, one of Verizon's long distance affiliates, BACI (Bell Atlantic Communi-

³⁶ The two relevant XEA reports are the 0501 report, which provides information on a single line, and the 0502 report, which provides information on each line in a BTN. 0501 reports are provided for six cents per record.

³⁷ CLECs, as opposed to IXCs, can obtain PIC freeze information from the customer's Customer Service Record, which it can access, with appropriate customer authorization, through the standard wholesale interfaces.

³⁸ Verizon does make available monthly reports of freeze status and other information for its customers' lines. There are separate reports for lines PIC'ed to the ordering carrier and lines *not* PIC'ed to the ordering carrier. These reports are made available on request for \$0.06 per record. Since they are periodic "snapshots", they do not provide real-time information.

cations, Inc.), obtains access to customer information, including freeze information, through an Online Customer Database Access agreement.³⁹ Verizon pays \$0.60 per query for data provided under this agreement. As with other agreements under which Verizon provides services to its long distance affiliates, this agreement is summarized on the Web⁴⁰, and its terms and conditions are fully available to unaffiliated carriers. In short, Verizon's affiliates have access to PIC freeze information on precisely the same terms as are available to unaffiliated carriers.

In the Order, the Commission expresses concerns arising out of the fact that Verizon service representatives can obtain PIC freeze status information from an additional source: the ICRIS system. However, the existence of that additional option is not discriminatory, for the following reasons:

- Employees of Verizon's long distance affiliates do not have access to ICRIS.
- ICRIS is used by service representatives in performing a service *for end user customers*, not for carriers. A customer may call the service center, whoever his or her current carrier is, and ask to be switched to any carrier. Whether the new or old carrier is Verizon, one of its affiliates, or an unaffiliated IXC, the service representative will use ICRIS to check the freeze status of the customer's line, and will either implement the change (if the line is unfrozen) or refer the customer to the VRU in accordance with Verizon's methods and procedures.
- The information available through ICRIS is precisely the same information as is available through XEA; indeed, in some cases, XEA is likely to be the more reliable source.⁴¹

³⁹ Online Database Access is addressed in Appendix F to the Service Agreement between Verizon and several of its operating company affiliates on the one hand, and BACI on the other. The relevant prices are set forth in Appendix L. Copies of this agreement will be provided on request.

⁴⁰ See <http://www.verizonld.com/RegNotices/>.

⁴¹ When a freeze/unfreeze request is placed through the VRU, the information is initially transferred to XEA. It is only subsequently that the information is transferred to ICRIS and the ICRIS records are updated.

(continued . . .)

- ICRIS is primarily a customer service system. Providing IXCs with access to it would raise complex issues concerning database security⁴² and inappropriate disclosure of customer CPNI, and would require a time consuming and costly interface development process that carriers are unlikely to want to pay for, given the fact that they can already obtain the same information through XEA.

In short, the ICRIS issue is simply a red herring that the carriers are seeking to exploit.

Verizon provides access to freeze information through XEA (or, for CLECs, through their wholesale interfaces), and any carriers can utilize the particular database interface that Verizon provides to BACI under their Service Agreement on the same terms and conditions as BACI. Nondiscriminatory access to freeze data does not require that carriers be given direct access to ICRIS. ICRIS information is properly used by Verizon's service representatives to provide service to all customers, including those who wish to switch away from Verizon or its affiliates to other toll carriers.

V. THE PROPOSED FREEZE ADMINISTRATION ALTERNATIVES SHOULD NOT BE ADOPTED

The IXC/CLECs have proposed various alternatives to the current system of freeze administration. Although each has its own defects, they share the fact that they are all solutions in search of a problem. As discussed above, there is no reason not to continue the current system of VRU-based freeze administration. The CLEC/IXC proposals should be rejected.

(... continued)

When the request is processed by a service representative, ICRIS will likely be updated first. (PIC change orders submitted through service representatives are processed based on freeze information in ICRIS; orders submitted by carriers are processed on the basis of freeze information in the database associated with XEA (known as NSS).) In either case, the time lag between the updating of the two systems is brief. Thus, in general, ICRIS is no more reliable than XEA as a source of relevant freeze status information.

⁴² For example, carriers should not be provided with the ability to use ICRIS access to unfreeze a customer's line.

1. "Super TPV"

The Commission specifically asked parties to address "Super TPV" as a PIC administration alternative.⁴³ This refers to a proposal originally floated by WorldCom, in which a carrier could in effect override a PIC freeze by stating to the executing LEC that a PIC change order on a frozen line has been appropriately verified by one of the permitted third-party verification ("TPV") procedures. The theory is that TPV itself provides sufficient safeguards against slamming.

The IXCs' description of their proposal as "Super TPV" should not be allowed to disguise the fact that it has little to do with TPV as that term is traditionally understood. Properly used, TPV describes an option in which a third party helps the *carrier that has responsibility for verifying the customer's choice* to discharge its responsibility by confirming and recording exactly what the customer has asked for. For example, the FCC slamming regulations applicable to interLATA carriers impose on the customer's preferred carrier (*i.e.*, the "submitting carrier"), and not the LEC (or "executing carrier"), the responsibility of verifying the customer's desire to use that carrier. The submitting carrier has the option of using a third-party verifier to carry out that responsibility.⁴⁴ In the case of *freezes* however, it is the executing LEC that has

⁴³ Order at 24.

⁴⁴ See 47 C.F.R. § 64.1150 ("No telecommunications carrier shall submit a preferred carrier change order unless and until the order has first been confirmed in accordance with one of the following procedures"); *id.* § 64.1150(c) (TPV option); *id.* § 64.1100(a)(2) ("An executing carrier shall not verify the submission of a change in a subscriber's selection of a provider of telecommunications service received from a submitting carrier.").

the verification responsibility.⁴⁵ Thus, the TPV option would logically be extended to interLATA PIC freezes by giving the LEC the option of retaining a third-party verifier to confirm the customer's choice; and in fact the FCC rules give LECs that option.⁴⁶

The petitioners' proposal is quite different. As the proposal was previously described by AT&T in a petition for reconsideration of the *VRU Order*, Verizon would be required to "honor every PIC and LPIC freeze change presented by a carrier that has certified that it only uses Commission-certified third-party verification firms." In short, the proposal is that the verifiers — and the customer — would have no contact with the executing LEC; instead, the LEC would be required to honor the submitting carrier's representation that appropriate verification has occurred.

This is antithetical to the very purpose of a freeze, which is to protect customers from change orders submitted by carriers without appropriate *customer* authorization. When a customer places a freeze request, he or she is clearly instructing Verizon *not* to process a change submitted without the customer's personal involvement. Aside from ignoring the customer's desires, as manifested in the initial freeze order, the Super TPV proposal would eliminate the protection against slamming that freezes were intended to afford. While a verification — if actually received — protects against slamming, the mere representation of a verification is really no protection at all. A carrier that is prepared to submit a change order without obtaining appropriate customer consent would presumably not hesitate to represent, falsely, that the order had

⁴⁵ 47 C.F.R. § 64.1190(d)(2).

⁴⁶ See 47 C.F.R. § 64.1190(d)(2)(C).

been verified by a third party.

This has been clearly recognized by the FCC, which explicitly found that submitting-carrier-TPV deprives customers of the important protections that preferred carrier freezes were intended to provide:

We agree with Ameritech and those commenters who suggest that the essence of the preferred carrier freeze is that a subscriber must specifically communicate his or her intent to request or lift a freeze. Because our carrier change rules allow carriers to submit carrier change requests directly to the LECs, the limitation on lifting preferred carrier freezes gives the freeze mechanism its protective effect. We disagree with MCI that third-party verification of a carrier change alone should be sufficient to lift a preferred carrier freeze. Were we to allow third-party verification of a carrier change to override a preferred carrier freeze, subscribers would gain no additional protection from the implementation of a preferred carrier freeze. Since we believe that subscribers should have the choice to implement additional slamming protection in the form of preferred carrier freeze mechanisms, we do not adopt MCI's proposal.⁴⁷

This conclusion was reaffirmed by the FCC on reconsideration.⁴⁸ The same conclusion was reached by this Commission in its *VRU Order*.⁴⁹ The Super TPV proposal should be rejected.

⁴⁷ *Slamming Order* ¶ 131. Although the FCC did leave the door open for States to develop additional verification procedures, it also made it clear that States "must . . . write and interpret their statutes and regulations in a manner that is consistent with our rules and orders, as well as section 258 [of the 1996 Act]." The FCC went on to find that the States could not adopt additional verification methods which fail to protect consumers. *Slamming Order* ¶ 89.

⁴⁸ *Implementation of the Subscriber Carrier Selection Changes Provisions of the Telecommunications Act of 1996: Policies and Rules Concerning Unauthorized Changes of Consumers' Long Distance Carriers*, CC Docket No. 94-129, Third Report and Order and Second Order on Reconsideration (rel. August 15, 2000), ¶¶ 69-71.

⁴⁹ The Commission stated in the *VRU Order* that Verizon had "completely discounted MCI's proposal that if an LPIC change has been verified by an independent TPV pursuant to FCC rules, that this should override any PIC freeze in place. [Verizon] *properly* [emphasis supplied] stated that the PIC freeze option is specifically designed to afford customers protection against slamming and that allowing this change would defeat the purpose of the PIC freeze."

2. Carrier-to-Carrier Service Metrics

The Commission seeks comments on the establishment of carrier-to-carrier metrics to monitor the effectiveness of Verizon's administration of the PIC freeze system.⁵⁰ However it is not clear what would be "measured" to determine such effectiveness. The key requirements in freeze administration are structural, not metric. In other words, Verizon's performance should be measured against whether it has implemented reasonable and non-discriminatory processes and methods, which it has, and not by counting orders or minutes.

It may be tempting to the Commission to try to develop metrics based on processing times, etc. However, this would be inappropriate. As we have already discussed, when freeze/unfreeze requests "fall out" of the VRU, they are simply transferred to a general queue that refers customers to representatives on a non-discriminatory, first-come, first-served basis. As the Commission itself noted, the speed with which requests are processed thereafter is cancelled against *general* metrics applicable to Verizon's retail customer service operations. Those metrics were established after lengthy negotiation, and certainly should not be subject to modification in this narrowly-framed proceeding. Nor can meaningful comparisons be made between processing times for freeze/unfreeze orders submitted to a service representative, orders submitted through a VRU, and orders submitted (as Verizon's tariff permits) in writing.

Nor should the Commission adopt, as AT&T once requested, metrics based on the rejection rate for PIC change orders. Since the most likely cause of a high reject rate is customer

⁵⁰ Order at 24.

decisions to freeze their lines, there is nothing to correct, punish, or analyze about such situations.

3. Third-Party Freeze Administration

There is absolutely no reason to consider third party administration ("TPA") of the PIC freeze process because there has been absolutely no demonstration that the current system is in need of a "fix." In addition, other carriers have not proposed any feasible TPA alternatives nor addressed why Verizon should be burdened with the costs and difficulties of such a proposal. It should also be noted that the FCC currently has TPA issues for PIC freezes under consideration.⁵¹ Any action by this Commission should certainly await the outcome of the FCC's investigation.

The complexities and costs that would arise from the use of a TPA to administer PIC freezes should not be underestimated. A TPA cannot simply set up shop and begin collecting orders. Any TPA system would have to interface with the Verizon systems through which freeze and unfreeze orders are implemented, as well as the various customer record systems that store the freeze status of particular lines. Any TPA proposal would have to address the detailed specifications for the interface systems that would have to be developed. Although absent any detailed proposal, it is impossible to say what a freeze TPA system would cost and how long it would take to develop, it is clear from Verizon's prior experience in OSS development that the costs would be high. The Commission must consider whether the game is worth

⁵¹ See *Slamming Order* ¶¶ 183-84.

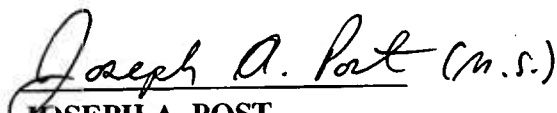
the candle; that is, whether whatever "comfort level" would be created by TPA is worth the cost, time, and disruption that it would cause.

As we stated in our response to AT&T's complaint, "[u]ltimately, TPA is a very large dog being wagged by a few unsubstantiated tales of improper conduct by service representatives. If such abuses do exist, it would obviously be far more effective to resolve them through enforcement action, or prevent them through use of the VRU, rather than to develop complex and expensive new gateway systems whose costs will ultimately be borne by consumers." Our opinion is unchanged.

VI. CONCLUSION

There is sound guidance in the precept "if it ain't broke, don't fix it." Nothing is "broke" here and nothing is in need of a "fix." The alternatives proposed by IXCs and CLECs are simply burdensome, costly, and ineffective "solutions" to non-existent problems. Their proposals should be rejected and the Commission should quickly affirm the use of the VRU process for local, intraLATA and interLATA PIC freeze administration.

Respectfully submitted,


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May 8, 2001