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May 7, 2002

Arizona Corporation Commission  
**DOCKETED**

MAY 07 2002

Chairman William A. Mundell  
Arizona Corporation Commission  
1200 W. Washington Street  
Phoenix, Arizona 85007

DOCKETED BY	<i>msc</i>
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Our File Number 2039008180

ARIZONA CORPORATION COMMISSION  
DOCKET CONTROL

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RECEIVED

Re: In the Matter of Rules to Address Slamming and Other Deceptive Practices  
Docket No. RT 00000J-99-0034

Dear Chairman Mundell:

MCI Worldcom ("WCom") respectfully requests that the Arizona Corporation Commission ("Commission") modify the proposed slamming rules to add a specific reference to electronic authorization as a means for efficiently lifting preferred carrier freezes. WCom recognizes that the rules have been through several revisions and comments and the most recent recommendations by carriers were submitted on August 6, 2001. However, recent developments in the evolving landscape of telecommunications industry have caused WCom to seek clarification of R14-2-1909 to confirm a carrier's ability to use electronic authorization. In the attached letter sent to Mr. Jim Fisher on January 7, 2002, WCom set forth its proposed amendments to A.A.C. R14-2-1909, as well as its explanation for the proposed changes.

By way of recent history, on January 28, 2002, Qwest Corporation ("Qwest") filed tariff revisions with this Commission to give its customers the option of instituting a freeze of their local service provider. Qwest had been announcing a Local PIC freeze product and/or filing tariff notifications in states throughout the Qwest region since the beginning of 2002. This product/proposed tariff has so alarmed CLECs, among them WCom, that the Staff of this Commission has opened a docket to investigate the proposed tariff (see In the Matter of Qwest's Corporation's Tariff Filing To Amend its Terms and Conditions And Permit Customers The Option of Instituting A Freeze Of Their Local Service Provider (Docket No. T-01051B-02-0073)).

Without commenting on the merits of the issues in the aforementioned docket, WCom believes that the implementation of an alternative mechanism for objectively lifting PIC freezes, namely electronic authorization is a consumer-friendly process which will provide a safeguard and convenience to a consumer wanting to

change his or her carrier. Thus, WCom proposed the changes on January 7, 2002.<sup>1</sup> Since the slamming/cramming rules are still in draft form, this is the most opportune time to have electronic authorization included in the rules.

In recent discussions regarding this issue, Staff has indicated that the current provisions of the rules found in A.A.C. R14-2-1905 and R14-2-1909 allow for the use of electronic authorization as proposed by WCom. Although WCom agrees that the rules allow for electronic authorization, WCom asks that the Commission affirmatively require that ILECs accept electronic authorization as a means to lift a preferred carrier freeze.

As explained in further detail in its January 7, 2002 letter, WCom's proposed amendments are consistent with federal law, which mandates that local exchange carriers accept a subscriber's "electronically signed authorization stating his or her intent to lift a preferred carrier freeze." 47 C.F.R. 64.1109(e)(1). This requirement complies with federal E-Sign law and Arizona's Electronic Transactions Act, which both provide that "a signature, contract or other record relating to such transaction may not be denied legal effect, validity, or enforceability solely because it is in electronic form." 15 U.S.C. § 7001(a)(1); *see also* A.R.S. § 44-7007(A). Consistent with WCom's proposal and as specifically set forth in these statutes, an electronically signed authorization may be made through the use voice recordings:

The term "electronic signature" means an electronic sound, symbol, or process, attached to or logically associated with a contract or other record and executed or adopted by a person with the intent to sign the record.

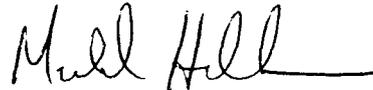
15 U.S.C. § 7006(5); A.R.S. § 44-7002(8); *see also* Uniform Electronic Transactions Act, Section 2, cmt. 6 ("[I]nformation stored on . . . voice mail messages, messages on a telephone answering machine, audio . . . tape recordings, among other records, all would be electronic records under this Act."), cmt. 7 ("One's voice on an answering machine may suffice [as an electronic signature] if the requisite intention is present."). Accordingly, under these statutes, an ILEC must give effect to the type of electronic authorization proposed by WCom.

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<sup>1</sup> Although the Qwest filing of a proposed tariff on local service freeze was not filed in Arizona until January 28, 2002, WCom anticipated from Qwest's activities in other Qwest states that a product would be offered within weeks of WCom's letter to Mr. Fisher.

For the foregoing reasons, WCom respectfully requests that the Commission consider WCom's proposed amendments.

Sincerely,



Michael T. Hallam

MH/jw

cc: Docket Control  
Commissioner Jim Irvin (via hand-delivery)  
Commissioner Marc Spitzer (via hand-delivery)  
Lyn Farmer, Chief Administrative Law Judge (via hand-delivery)  
Chris Kempley, Chief Counsel (via hand-delivery)  
Ernest Johnson, Utilities Division Director (via hand-delivery)  
Timothy Berg (via facsimile)  
Jeffrey W. Crockett (via facsimile)  
Daniel Pozefsky (via facsimile)  
Joan S. Burke (via facsimile)  
Cindy Manheim (via facsimile)  
Mary B. Tribby (via facsimile)  
Eric S. Heath (via facsimile)

January 7, 2002

**VIA HAND DELIVERY**

Jim Fisher  
Executive Consultant - Utilities Division  
Arizona Corporation Commission  
1200 W. Washington Street  
Phoenix, Arizona 85007

Re: In the Matter of Rules to Address Slamming and Other Deceptive  
Practices  
Docket No: RT 00000J-99-0034

Dear Mr. Fisher:

Per the conversation you had in December with Teresa Tan, in-house counsel at WorldCom, Inc., what follows is an overview of MCI WorldCom's proposed Electronic Authorization as a means for efficiently lifting PIC freezes. The goal of an effective Electronic Authorization process is to facilitate consumer convenience, protect his or her rights against unauthorized practices, and encourage competition by permitting ease of transfer between different telecommunications companies. Qwest recently announced that it intends to offer an untariffed product designed to encourage residential customers to 'freeze' their local PIC. While MCI WorldCom opposes such a local PIC "freeze," Qwest's announcement validates the urgency to implement rules that remove the control of PIC freeze administration from the LEC. This is particularly important as the Arizona consumer is on the verge of reaping the benefits of local competition.

Set forth below is WorldCom's proposed amendments to R15-2-1909, where it would be appropriate to insert language on Electronic Authorization. Following the proposed language is our explanation for the proposed changes. It is our hope that the Commission will consider including this consumer protection component in the pending Slamming/Cramming rules now under review.

**Proposed Rule/Language (in italics):**

**R15-2-1909 Customer Account Freeze**

- A. A Customer Account Freeze prevents a change in a Subscriber's intraLATA and interLATA Telecommunications Company selection until the Subscriber gives consent to lift the freeze to the local exchange company that implemented the freeze.**
- B. A local exchange company that offers a freeze shall do so on a nondiscriminatory basis to all Subscribers.**
- C. A Telecommunications Company that offers information on freezes shall clearly distinguish intraLATA and interLATA telecommunications services.**
- D. A local exchange carrier shall not implement or remove a freeze without authorization obtained consistent with R14-2-1904 and verification consistent with R14-2-1905.**
- E. A local exchange company removing a PIC freeze pursuant to electronic authorization is subject to the same obligations as with written authorization. The electronic nature of the authorization does not subject the LEC to additional responsibility.***
- F. Methods for lifting PIC freezes may not impose unnecessary burdens on consumers or telecommunications companies. The LEC may not base a refusal to honor a customer's request to lift a freeze on the grounds that such a request is submitted through electronic means, including voice recordings.***
- G. A Telecommunications Company shall not charge the Customer for imposing or removing a freeze except under a Commission approved tariff.**
- H. A local exchange company shall maintain records of all freeze authorizations and repeals for 12 months**

**MCI WorldCom's Electronic Authorization Proposal is a Customer-Friendly,  
Competitively Neutral Means to Lift PIC Freezes**

As you know, currently, when a consumer who has elected PIC freeze protection wishes to change his PIC, he must either participate in multiple three-way calls or submit some type of written authorization. In addition, many consumers do not discover they have a PIC freeze in place until after a PIC-change request has been rejected. The consumer, the executing LEC and the requesting carrier are thus forced to grapple with the added expense, annoyance and coordination problems associated with a multi-step process.

With Electronic Authorization, when a customer is sent to the independent third-party verifier who verifies the sale, an independent TPV agent will make an audio recording of the customer's request to lift a PIC freeze. Then, if the customer's order is rejected by the LEC because of a PIC freeze, the audio recording will be sent or will be made available for the LEC to review. Under federal and state electronic signature statutes, this constitutes a direct request from the customer to the LEC to lift the PIC freeze, and it is accomplished in one phone call, without LEC (Qwest) intervention and without the seemingly unending steps that are currently required of the customer.

**Mechanics of Electronic Authorization**

The FCC has stated that LECs may not lift PIC freezes based solely on the word of a submitting carrier. Concerned with the possibility of abuse, the FCC ruled that customers must inform LECs directly of their desire to lift a freeze. Acknowledging that the current system is far from perfect, however, the FCC encouraged carriers "to develop other methods of accurately confirming a subscriber's identity and intent to lift an preferred carrier freeze." The challenge then is to develop a system that allows customers to communicate their intent to Qwest without requiring written authorization or multiple phone calls by the customer.

Using the technology of the Internet, this can be accomplished by recording the customer's oral authorization and, with the customer's consent, transmitting or making that recording available to the LEC in the form of a digital ".wav" file. Specifically, as part of the TPV process, the customer indicates that he wishes to inform Qwest that he would like to lift his PIC freeze. He further indicates that he would like to accomplish this task by having a recording of the authorization transmitted directly to the LEC. The customer is thus able to provide authorization without having to rely on the word of the requesting carrier. The third-party verifier merely provides the delivery mechanism for the Electronic Authorization; much like the U.S. Postal Service is the delivery mechanism for a written authorization.

With Electronic Authorization, the carrier-change process, from sales call to order processing, would work as follows:

- (i) Sales Call: During the sales call, the customer agrees to change his intraLATA and/or interLATA PIC to the IXC.
- (ii) TPV: After the sales call, the customer is sent to an independent third-party verifier. This can be accomplished either by transferring the customer to the TPV agent or by a call back from the TPV agent to the customer, shortly after the sales call. The TPV agent verifies the customer's intent to switch carriers.
- (iii) Electronic Authorization: The independent TPV agent also records the customer's authorization directing the ILEC to lift any PIC freezes on the customer's account. The customer requests that the recorded authorization be transmitted to the ILEC if required.
- (iv) Order Sent to Qwest: The PIC change order is sent to Qwest in the same manner in which it is sent today.
- (v) Order Rejects: Because the account has a PIC freeze, Qwest rejects the order and sends the rejection notice to the IXC, just as it does today.
- (vi) Independent Company Sends Qwest Electronic Authorization: After the IXC receives the rejection notice, it alerts the independent company that recorded the Electronic Authorization. The independent company sends Qwest notice that the wav Electronic Authorization is available on an Internet website.
- (vii) Qwest Reviews Electronic Authorization: Qwest accesses the .wav file and reviews it to confirm that the customer has directed Qwest to lift his PIC freeze.
- (viii) Qwest Executes Customer Changes: Qwest lifts the PIC freeze, executes the carrier changes, and replaces the PIC freeze, as directed by the customer.

### **Electronic Authorization is Customer-Friendly**

Electronic Authorization allows the customer to change his carrier in a single phone call. It eliminates the current system's need for multiple phone calls. When a customer completes the original sales call and TPV call, he assumes the process is complete and expects that his order will be processed according to his wishes. With Electronic Authorization, that is accomplished, just as the customer expects. The confusion and frustration inherent in the current system is significantly curtailed if not eliminated. Furthermore, Electronic Authorization ensures that the customer's PIC freeze protection is not compromised, because Qwest hears the customer's actual oral request for the freeze to be lifted. Unless the customer's actual request to lift a freeze is transmitted or made available to Qwest, the order will not go through.

### **Electronic Authorization is Competitively Neutral**

Currently, most IXCs already contract with third party verifiers to verify customers' requests to switch carriers. Of course, those carriers who do not use TPV will continue to have the option to conduct three-way-calls. But for the majority of carriers who do use TPV, three-way calls and two-way calls become a thing of the past. Electronic Authorization eliminates the possibility that Qwest might use its position as PIC administrator to its benefit in winning and retaining customers and, as evidenced in recent weeks, to promote local PIC freezes, thus stifling competition in an emerging competitive local market.

### **Electronic Authorization is Cost Effective and Can Be Implemented Quickly**

Because Electronic Authorization builds on already existing processes and procedures, it can be implemented without a major increase in carrier expenses. For Qwest, Electronic Authorization will substantially reduce, if not almost eliminate, the number of three-way calls that Qwest participates in today. Its representatives will merely perform the ministerial function of accessing and listening to the .wav file authorizations.

For the carrier submitting the PIC change order, Electronic Authorization requires only a slight expansion of the TPV process. Submitting carriers today spend counterproductive time attempting to re-contact customers and resubmit rejected orders. With Electronic Authorization, the customer is not re-contacted, and the carrier must only direct the independent third party to submit the recorded .wav file. Additionally, because Electronic Authorization eliminates the confusion and frustration inherent in the current system, WorldCom expects a significant decrease in customer service calls and customer complaints associated with the carrier change process.

Further, Electronic Authorization can be accomplished almost immediately, without the time and expense required to develop other means. Other mechanisms, such as third party administration as proposed by AT&T, may be appropriate in the long term. For example, WorldCom supports AT&T's general concept of neutral PIC administration; however, WorldCom is concerned that the costs, including expected litigation costs, of such a system may be significant. Because WorldCom's proposal builds on existing processes, WorldCom submits that its proposal can be implemented relatively inexpensively and quickly, and the Commission should first implement Electronic Authorization, regardless of whether the Commission later chooses to pursue third party administration.

**Electronic Authorization is Consistent With Federal Law and Regulations**

Electronic Authorization falls squarely within the parameters of the Electronic Signatures in Global and National Commerce Act ("E-Sign Act"). The federal law establishes that "a signature, contract, or other record relating to such transaction may not be denied legal effect, validity, or enforceability solely because an electronic signature or electronic record was used in its formation." The E-Sign Act specifically contemplates that carriers will receive electronic records and prohibits the FCC from holding them unenforceable. The proposed regulatory language complies with the federal law.\*

In conclusion, WorldCom respectfully requests that the Commission, within the context of the pending Slamming/Cramming rules, mandate Qwest to accept Electronic Authorization as a viable means for lifting PIC freezes. Please do not hesitate to contact me if you have any questions or require further information.

Very truly yours,

LEWIS AND ROCA LLP



Thomas H. Campbell

THC/bjg

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\* WorldCom will be happy to provide a more detailed analysis of how Electronic Authorization complies with current federal laws if the Arizona Corporation Commission would like a fuller explanation.