

section 258 of the Act provides that “[n]o telecommunications carrier shall submit or execute a change in 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.” We emphasize, however, that the statute does encompass all changes in a subscriber’s selection of a provider of telecommunications service, regardless of whether such change occurs at the same time a subscriber changes residences or when a business relocates or expands. It is no less important for carrier change verification to be obtained when a consumer is receiving the service on new lines than when the carrier change occurs without new line installations.

14. *Carrier Reporting of Slamming Allegations (Form 478)*. Sprint and WorldCom ask the Commission to reconsider its carrier reporting requirement. According to our rules, carriers providing telephone exchange service and/or telephone toll service must periodically submit to the Commission reports regarding complaints they receive concerning unauthorized carrier changes. In the *Third Report and Order*, the Commission directed each carrier to submit a reporting form (Form 478) identifying the number of slamming complaints received and the number of such complaints that the carrier has investigated and found to be valid. The Commission also required carriers to identify the number of slamming complaints involving local, intrastate, and interstate exchange service, investigated or not, that the carrier has resolved directly with subscribers. Upon reconsideration, we find that the carrier reporting requirement should be eliminated. We therefore remove § 64.1180 of our rules. Our experience since the adoption of the requirement has shown that the information contained in such reports is of limited utility in investigating allegations of slamming; at the same time, it appears that the burdens associated with filing the reports are significant.

15. *More Stringent Verification Requirements*. In its Petition for Reconsideration of the *First Reconsideration Order*, WorldCom asks the Commission to clarify that, when determining whether a change was authorized, the states must use the Commission’s definition of subscriber as set forth in the *Third Report and Order*. We confirm that, in the areas in which the states have jurisdiction, federal verification procedures constitute a “floor,” and the states may choose to

impose more stringent requirements, so long as they are consistent with the federal requirements. WorldCom does not identify a specific state law or laws that it would seek to have preempted, nor does it describe how the particular law(s) conflicts federal law or obstructs federal objectives. In the absence of such evidence, we decline to preempt state laws regarding the definition of “subscriber” in the context of carrier change verification.

16. *Underlying Facilities-Based Carrier Changes*. In the *Second Report and Order*, the Commission adopted rules to clarify the appropriate use of preferred carrier freezes. Since the implementation of the *Second Report and Order*, we have received inquiries from LEC representatives who expressed concern about the risks of “lifting” a customer’s preferred carrier freeze in order to permit the customer’s preferred carrier, a switchless reseller, to begin using the network of a different facilities-based carrier. Based on our experiences, we clarify here that we do not consider it a lifting of a preferred carrier freeze when a LEC implements the request of a switchless reseller to change its underlying carrier, and makes the technical changes necessary to permit the reseller’s customer to retain his or her chosen carrier. Under these circumstances, the subscriber’s preferred carrier is the switchless reseller, and the subscriber does not experience a carrier change when the reseller merely makes a change to the underlying facilities it utilizes.

17. *Resolution of Informal Complaints*. In the *First Order on Reconsideration*, we modified our informal complaint rules to better address the adjudication of unauthorized carrier change complaints. The rule modifications were intended to give consumers a wider array of remedies than was available under the former informal complaint rules, which did not provide for the Commission to order monetary payments by carriers to consumers in situations involving unauthorized carrier changes. Our current rules regarding informal complaints filed pursuant to section 258 state that “[t]he Commission will issue a written (or electronic) order informing the complainant, the unauthorized carrier, and the authorized carrier of its finding, and ordering the appropriate remedy, if any, as defined by §§ 64.1160 through 64.1170 of this chapter.” Given our experience with the resolution of unauthorized carrier change complaints since the promulgation of these rules, we believe that permitting flexibility as to the form of complaint determinations allows for more efficient use of

Commission resources and would speed the resolution of complaints. Accordingly, we clarify that, under the appropriate circumstances, the Commission may issue an order addressing an informal slamming complaint in the form of a letter, written or electronic, containing the information required by our rules.

#### F. Accessible Formats

18. Accessible formats (computer diskettes, large print, audio recording and Braille) are available to persons with disabilities by contacting Brian Millin of the Consumer & Governmental Affairs Bureau, at (202) 418-7426, TTY (202) 418-7365, or at [bmillin@fcc.gov](mailto:bmillin@fcc.gov).

#### IV. Procedural Matters

##### G. Regulatory Flexibility Analysis

19. As required by the Regulatory Flexibility Act, as amended (RFA), the Commission has prepared an Initial Regulatory Flexibility Analysis (IRFA) of the possible significant economic impact on small entities of the proposals set forth in the Second FNPRM.

##### H. Paperwork Reduction Act Analysis

20. This *Third Order on Reconsideration and Second Further Notice of Proposed Rulemaking* contains either a new or modified information collection(s). The Commission, as part of its continuing effort to reduce paperwork burdens, invites the general public to comment on the information collection(s) contained in this *Third Order on Reconsideration and Second Further Notice of Proposed Rulemaking* as required by the Paperwork Reduction Act of 1995, Public law 104-13. Public and agency comments are due June 17, 2003.

##### I. Ex Parte Presentations

21. This is a permit-but disclose notice and comment rulemaking proceeding. Members of the public are advised that ex parte presentations are permitted, except during the Sunshine Agenda period, provided they are disclosed under the Commission’s rules.

#### Supplemental Final Regulatory Flexibility Analysis

22. As required by the Regulatory Flexibility Act (RFA), an Initial Regulatory Flexibility Analysis (IRFA) was incorporated in the *Third Report and Order and Second Order on Reconsideration*. The Commission sought written public comment on the proposals in the *Third Report and Order*, including comment on the IRFA. A Final Regulatory Flexibility Analysis (FRFA) was incorporated in the *Third Report and Order*. The Commission