

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

TOLL DIALING PARITY COMPLIANCE )	ADMINISTRATIVE
)	CASE NO. 380

O R D E R

In Administrative Case No. 323, the Commission set forth guidelines for the implementation of intraLATA equal access and toll dialing parity.<sup>1</sup> In accordance with Federal Communications Commission ("FCC") orders, state commissions had until June 22, 1999 to review plans for intraLATA equal access and toll dialing parity that had been submitted by local exchange carriers.<sup>2</sup> However, some companies have been delayed in filing their plans with the Commission.

The guidelines of the Commission for toll dialing parity<sup>3</sup> include: (1) the use of a two-PIC approach to carrier presubscription; (2) cost recovery shall be limited to the incremental investment and incremental expenses directly related to providing intraLATA equal access; and (3) new customers beginning service with a

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<sup>1</sup> Administrative Case No. 323, An Inquiry Into IntraLATA Toll Competition, An Appropriate Compensation Scheme for Completion of IntraLATA Calls by Interexchange Carriers and WATS Jurisdictionality, Order of December 29, 1994.

<sup>2</sup> FCC Order of March 19, 1999 in CC Docket No. 96-98.

<sup>3</sup> Order of December 19, 1994.

local exchange carrier after intraLATA equal access conversion to choose both interLATA and intraLATA toll carriers at the time local service is established.

LCI International Telecom Corp. d/b/a Qwest Communications Service ("Qwest"), NewSouth Communications ("NewSouth"), Intellicall Operator Services, Inc. d/b/a ILD ( IOS ), OmniCall Inc. ("OmniCall"), and DSLnet Communications, LLC ("DSLnet") filed dialing parity plans with the Commission after the June 22, 1999 deadline.<sup>4</sup> ITC^DeltaCom filed a revised plan.<sup>5</sup>

Qwest's plan for dialing parity includes using full two-PIC carrier selection methodology.<sup>6</sup> As a reseller, Qwest will submit all interexchange carrier requests and those made by customers for intraLATA presubscription to the underlying local exchange carrier for implementation. Qwest does not plan to have new resold local exchange customers; however, if new customers should join the company, they will be informed of their option to presubscribe to an intraLATA carrier. Also, Qwest will allow a 90-day grace period during which its current customers may select their intraLATA presubscription carriers; after that grace period, a \$5-per-line switching charge will apply. Customers of Qwest will be notified of this new option by bill insert or bill message.

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<sup>4</sup> Plan of Qwest Communications Service filed June 23, 1999; plan of NewSouth Communications filed June 24, 1999; plan of OmniCall Inc. filed June 24, 1999; plan of DSLnet Communications, LLC filed June 29, 1999.

<sup>5</sup> Plan of ITC^DeltaCom filed June 21, 1999.

<sup>6</sup> Plan of Qwest Communications Service filed June 23, 1999, at 1.

NewSouth's plan also contains two-PIC technology.<sup>7</sup> Customers will have a 12-month grace period during which they may select carriers. After that time, a \$5-per-line switching charge will apply to PIC changes. However, NewSouth proposes that if it learns of an unauthorized PIC change by an intraLATA carrier, it will impose a \$30 fine upon the offending carrier. By the Commission's Order of August 21, 1998, in Case No. 98-348, such charges are anti-competitive in nature and the assessment of such a penalty will not be allowed. "Alleged 'slamming' violations should be reported to this Commission for resolution."<sup>8</sup>

IOS's proposal will use multiple PIC technology to implement intraLATA toll dialing parity.<sup>9</sup> The company does not intend to recover implementation costs. Customers will have a 30-day grace period during which they may select their carriers; selections made after that time will incur a \$5-per-line change charge.

In the proposal submitted by OmniCall, the company will notify its customers of the new option by printing a message on its invoices.<sup>10</sup> Customers may then inform OmniCall of their selection in writing or verbally to its Customer Service Department. Since OmniCall resells the services of BellSouth Telecommunications, Inc. ("BellSouth"), all customer-originated requests will be sent to BellSouth.

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<sup>7</sup> Plan of NewSouth Communications filed June 29, 1999.

<sup>8</sup> Case No. 98-348, Investigation Regarding Completion of the Statement of Generally Available Terms of BellSouth Telecommunications, Inc. with Section 251 and Section 252(d) of the Telecommunications Act of 1999, Order of August 21, 1998, at 4.

<sup>9</sup> Plan of IOS filed July 14, 1999.

<sup>10</sup> Plan of OmniCall Inc. filed June 24, 1999.

DSLnet will deploy two-PIC technology.<sup>11</sup> The company will offer a 90-day grace period for its customers to select a carrier. After that time, a \$5-per-line charge will apply to any change. DSLnet also proposes a \$30 penalty against the offending company in cases of unauthorized switches. Again, the Commission will not permit this for reasons discussed in the above paragraphs.

ITC^DeltaCom refiled its plan with the Commission.<sup>12</sup> This plan included provisions for the use of PIC technology in switches, random order carrier lists for customer use, and fines for unauthorized PIC changes. ITC^DeltaCom imposes a \$5 switching charge (instead of a \$15 fee) as mandated by the Commission's Order of June 18, 1999.

Finally, on the Commission's own motion, it amends provisions of its previous Order of June 18, 1999. In Ordering Paragraphs 1 and 2, the Commission approved the dialing parity plans of Hyperion Communications of Kentucky, Inc. and ITC^DeltaCom (except for the section setting a \$15 switching charge). However, those plans provided for the imposition of penalties upon carriers who switched the PICs of Hyperion and ITC^DeltaCom customers without the customers' permission. As stated earlier, such charges are anti-competitive in nature and the assessment of such a penalty will not be allowed by the Commission.

IT IS THEREFORE ORDERED that:

1. The dialing parity plans of Qwest, IOS, and OmniCall are approved.

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<sup>11</sup> Plan of DSLnet Communications, LLC filed June 29, 1999.

<sup>12</sup> ITC^DeltaCom Kentucky IntraLATA Presubscription Implementation Plan filed April 29, 1999.

2. The revised dialing parity plan of ITC^DeltaCom is approved with the exception of the unauthorized switching penalty as discussed in the Commission's own motion.

3. The dialing parity plans of NewSouth and DSLnet are approved with the exception of the proposed unauthorized switching penalty, which is denied.

4. Within 20 days of the date of this Order, NewSouth, DSLnet, ITC^DeltaCom, and Hyperion shall refile their plans, eliminating any unauthorized switching penalty.

5. Within 30 days of the date of this Order, Qwest, IOS, NewSouth, OmniCall, DSLnet, and ITC^DeltaCom shall file their tariffs with the Commission.

Done at Frankfort, Kentucky, this 4th day of August, 1999.

By the Commission

ATTEST:

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Executive Director