



STATE OF NEW YORK
EXECUTIVE DEPARTMENT
STATE CONSUMER PROTECTION BOARD

George E. Pataki
Governor

Teresa A. Santiago
Chairperson and Executive Director

August 25, 2006

Mr. Michael Corso
Chief of Policy & Program Management
Office of Telecommunications
New York State Department of Public Service
Three Empire State Plaza
Albany, New York 12223

Re: Case 06-C-0481 – Proceeding on Motion of the Commission Providing for the Examination of Service Quality and Consumer Protection Regulations, Including Parts 602, 603 and 609.

Dear Mr. Corso:

The Consumer Protection Board (“CPB”) submits this letter in response to your invitation for comments on the Proposed and Reformatted Regulations issued by Staff of the Department of Public Service (“DPS Staff”) on July 31, 2006. We commend DPS Staff for its continuing efforts to solicit the input of interested parties before making a recommendation to the Public Service Commission.

In many respects, the DPS Staff proposal represents a proper response to changes in the telecommunications market. Certain regulations are no longer necessary or appropriate, and others should be modified, in consideration of changes in the telecommunications market. Competition does not obviate the need for regulation in all cases, however, particularly where public health, safety and welfare may be affected. The CPB requests that DPS Staff reconsider the following elements of its July 31, 2006 Proposed Draft rules.

Installation Standard and Reports

PSC regulations require telephone service providers to complete installation of new first lines within five days, in normal conditions. (§602.5) They also identify metrics and performance thresholds for installation of initial basic local exchange service. (§603.3) DPS Staff claims that competition obviates the need for these requirements and proposes that they be eliminated.

The CPB urges DPS Staff to reconsider this issue. These rules are important to consumers. Consumers who are promised installation within five days, and fail to receive it, may have no telephone service whatsoever, and may not have an alternative that is acceptable to them. Under the DPS Staff proposal, they would have little recourse but to file a complaint with the provider, then file a complaint with the PSC and await a determination.

In recent years, the state's large telephone service providers have consistently met this standard, to their credit, demonstrating that it is not burdensome. We also note that the PSC recently approved installation standards for cable television service.¹ In our view, the public health, safety and welfare aspects of first line telephone service far exceed those for cable television service, demonstrating that these installation standards and reporting requirements should be maintained.

Prompt installation of primary access line service is important for public health, safety and welfare. It is also consistent with the PSC's universal service objectives.

Suspension and Termination

As the regulations are written today, when a customer defaults on payment of their local telephone service bill, they are supplied a notice of termination which informs them of action to take to avoid suspension or termination of their local telephone service. In Parts 600.2 and 609.2, suspension of local telephone service is defined as "interruption of outgoing service only" and termination of local service as "the interruption of both incoming and outgoing service" or 2-way suspension. It is CPB's understanding that in both situations, even though the consumer is restricted in its' calling behavior, access to E911 service is maintained.

Under the current regulations, after a customer is served a notice of termination, if the telephone service provider has not received payment, the customer's service can be suspended. After service is suspended, if the service provider still has not received payment, the customer's service would be terminated, or 2-way suspended. DPS Staff now proposes to alter this separate suspension versus termination period to allow for only the termination of the customer's telephone service upon nonpayment. Hence, upon the customer receiving a termination notice and not fulfilling the payment obligations within that notice, the customer's service would be terminated or 2-way suspended. The customer would no longer be provided a suspension period.

CPB encourages DPS Staff to maintain the current termination process that consists of both a suspension and termination period. Customers are familiar with the current suspension and termination rules and may be confused, and harmed, if these rules are changed. Maintaining the current suspension and termination periods provides the customer two opportunities to take action to remain on the network, helps achieve the PSC's universal service objectives and advances public health, safety and welfare.

¹ 16 NYCRR 890.91(a)

Posting of Bills

Under current regulations, telephone service providers must require that third-party payment centers authorized to receive bill payments on their behalf, “mail or report consumers’ payments within one business day.” (§602.6(c)) That requirement helps ensure that late payment charges are not inappropriately assessed, and service is not needlessly suspended or terminated. DPS Staff proposes to eliminate that requirement.

The CPB understands that third-party payment centers are used heavily by low-income customers, who often are at or near the deadline for making payment. Eliminating the requirement could cause considerable confusion and harm to these customers. To the extent it results in service termination for customers that have in fact paid their bills, it may lead to unwarranted reconnection charges and may thwart the Commission’s universal service objectives.

Justification for eliminating this requirement has not been provided to the parties. In our view, this continues to be an important consumer protection, especially to the most vulnerable consumers, and should be retained.

Safeguards Regarding Obscene, Threatening or Harassing Calls

Current regulations require all local service providers to “assist consumers reporting obscene, threatening, or harassing calls, to help in eliminating such calls.” (§602.7(g)) DPS Staff proposes to eliminate that requirement. The justification for that proposal is not apparent.

We recommend that this requirement be maintained, because it helps preserve public safety and welfare. As stated by the PSC, “The safety and welfare of New Yorkers rises above the need of any single provider or category of providers.”² If this rule is eliminated, what should consumers do to eliminate such calls? In our view, it would be inappropriate for consumers to rely on law enforcement agencies for the assistance previously provided by telephone service providers. In addition, the “market” would not provide an acceptable solution, since without assistance from their current service provider, consumers may have to change their telephone number to help eliminate such calls. In our view, the current rule is necessary for the safety and welfare of New Yorkers and should be maintained.

Emergency Contingency Plans

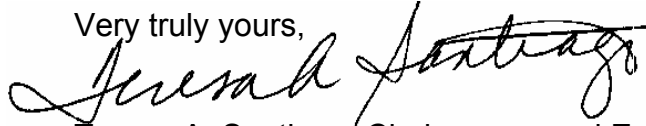
The PSC’s current regulations require telephone service providers to “maintain

² Case 05-C-0616, Proceeding on Motion of the Commission to Examine Issues Related to the Transition to Intermodal Competition in the Provision of Telecommunications Services, Statement of Policy on Further Steps Toward Competition in the Intermodal Telecommunications Market and Order Allowing Rate Filings, April 11, 2006, p. 95.

emergency contingency plans designed to assist personnel to prepare for emergencies,” and provide a copy of that plan and any subsequent updates to Director of the Office of Communications. (§603.5(b)) DPS Staff proposes to eliminate the requirement that a copy of that plan be provided to DPS Staff. Justification for this proposal has neither been provided nor is it apparent.

Overseeing the telecommunications network and helping ensure its reliability is one of the PSC’s main responsibilities. The benefits of this reporting requirement far outweigh its costs, and the requirement should be maintained.

Very truly yours,

A handwritten signature in black ink, appearing to read "Teresa A. Santiago". The signature is written in a cursive, flowing style with a prominent loop at the end.

Teresa A. Santiago, Chairperson and Executive Director
Douglas W. Elfner, Director of Utility Intervention
Gregg Collar, Telecommunications Project Manager