

I. INTRODUCTION

On November 29, 1999, Ru-Hong Terajewicz ("Complainant"), pursuant to G.L. c. 93 § 108 et seq., filed a complaint with the Department of Telecommunications and Energy ("Department") alleging that MCI WorldCom ("MCI" or "Company") switched her regional toll telephone service without authorization.

On April 26, 2000, pursuant to notice duly issued, the Department conducted an evidentiary hearing. The Complainant testified on her own behalf. At the hearing, the Company submitted into evidence a letter written by Christopher J. McDonald, its senior attorney.

II. POSITIONS OF THE PARTIES

A. Complainant

The Complainant testified that she learned of the switch in her regional toll telephone provider from Bell Atlantic to MCI on September 23, 1999, after her Bell Atlantic telephone bill contained charges from MCI for phone calls placed to areas within Massachusetts (Tr. at 10-11). Ms. Terajewicz testified that she incurred charges of \$780.07 between August 5, 1999 and September 29, 1999 (id. at 10-13; Exh. Consumer-3). The Complainant testified that although her account was credited for \$ 760.07, she is still owed \$20.00 representing charges incurred to switch her regional toll service from MCI back to Bell Atlantic (Tr. at 23-24).

B. MCI

MCI acknowledged that they switched the Complainant's regional toll telephone service without authorization (Exh. MCI-1). After listening to the tape recording, MCI noted that the third party verification ("TPV") company representative went beyond his authority and inappropriately responded to substantive questions asked by Ms. Terajewicz (id.).

III. STANDARD OF REVIEW

Pursuant to G.L. c. 93, § 109(a), a change in a customer's primary interexchange ("IXC") carrier shall be considered to have been authorized only if the IXC or local exchange carrier ("LEC") that initiated that change provides confirmation that the customer authorized such change either through a signed LOA or oral confirmation of authorization obtained by a company registered with the department to provide third party verification services in the Commonwealth.

G.L. c. 93, § 109 provides that for a TPV to be valid, among other things, it must confirm that the authorization was given to change a customer's telephone service to a specified IXC for an identified telephone line.

IV. ANALYSIS AND FINDINGS

In accordance with G.L. c. 93, §110(i), after the Complainant notified the Department of her intent to challenge the veracity of the TPV information provided to her by MCI, a hearing was conducted to determine whether the change in Ms. Terajewicz's regional toll carrier was authorized. In its letter to the Department, MCI specifically acknowledged that the switch in the Complainant's regional toll service was not done in conformance with Massachusetts law. Thus, the Department finds that MCI's failure to provide a valid TPV indicates that the switch in Ms. Terajewicz's regional toll service was not authorized.

In light of the evidence that MCI switched the Complainant's regional toll provider without authorization, and in accordance with G.L. c. 93, § 112, the Department directs the Company to refund to Complainant any fees incurred in making the switch.⁽¹⁾ MCI is also directed to refund to Ms. Terajewicz's previous regional toll carrier all revenue that they would have received from Ms. Terajewicz had the switch not taken place.⁽²⁾

- ORDER

Accordingly, after notice, hearing, consideration, and determination that MCI WorldCom switched Ru-Hong Terajewicz 's regional toll telephone service provider without authorization, it is hereby

ORDERED: That MCI WorldCom shall comply with the directives contained in this Order; and it is

FURTHER ORDERED: That MCI WorldCom shall submit to the Department within seven business days of the issuance of this order, an accounting of the refunds made to the Complainant and to the Complainant's previous interexchange carrier.

By Order of the Department,

James Connelly, Chairman

W. Robert Keating, Commissioner

Paul B. Vasington, Commissioner

Eugene J. Sullivan, Jr., Commissioner

Deirdre K. Manning, Commissioner

Appeal as to matters of law from any final decision, order or ruling of the Commission may be taken to the Supreme Judicial Court by an aggrieved party in interest by the filing of a written petition praying that the Order of the Commission be modified or set aside in whole or in part.

Such petition for appeal shall be filed with the Secretary of the Commission within twenty days after the date of service of the decision, order or ruling of the Commission, or within such further time as the Commission may allow upon request filed prior to the expiration of twenty days after the date of service of said decision, order or ruling. Within ten days after such petition has been filed, the appealing party shall enter the appeal in the Supreme Judicial Court sitting in Suffolk County by filing a copy thereof with the Clerk of said Court. (Sec. 5, Chapter 25, G.L. Ter. Ed., as most recently amended by Chapter 485 of the Acts of 1971).

1. The Department notes that MCI has credited already the Complainant for all charges except for the fees incurred to switch her telephone service.
2. An IXC determined by the Department to have intentionally, maliciously or fraudulently switched the service of more than 20 customers in a 12-month period may be prohibited from selling telecommunications services in the Commonwealth for a period of up to one year. G.L. c. 93, § 112(b).