BEFORE THE ARIZONA CORPORATION COMMISSION

WILLIAM A. MUNDELL
Chairman
JIM IRVIN
Commissioner
MARC SPITZER
Commissioner

IN THE MATTER OF QWEST CORPORATION'S APPLICATION FOR APPROVAL OF LOCAL SERVICE FREEZE TARIFF	DOCKET NO. T-01051B-02-0073 **QWEST'S NOTICE OF FILING DIRECT TESTIMONY**

Pursuant to the Procedural Order dated March 26, 2002, Qwest Corporation provides notice of filing the attached Direct Testimony of Scott A. McIntyre and exhibits.

Submitted this 11th day of April, 2002.

By: [signature]
Timothy Berg
Theresa Dwyer
FENNEMORE CRAIG, P.C.
3003 North Central, Suite 2600
Phoenix, Arizona 85012-2913
(602) 916-5421
(602) 916-5999 (fax)
Attorneys for Qwest Corporation

ORIGINAL and 10 copies of the foregoing hand-delivered for filing this 11th day of April, 2002 to:

Docket Control
ARIZONA CORPORATION COMMISSION
1200 West Washington
Phoenix, Arizona 85007

COPY of the foregoing delivered this day to:

Jane L. Rodda
Administrative Law Judge
ARIZONA CORPORATION COMMISSION
1200 West Washington
Phoenix, AZ 85007

Christopher Kempley, Chief Counsel
Legal Division
ARIZONA CORPORATION COMMISSION
1200 West Washington
Phoenix, AZ 85007

Ernest Johnson, Director
Utilities Division
ARIZONA CORPORATION COMMISSION
1200 West Washington
Phoenix, AZ 85007

COPY of the foregoing mailed this day to:

Michael W. Patten, Esq.
ROSHKA, HEYMAN & DeWULF, P.C.
400 East Van Buren, Suite 800
Phoenix, AZ 85004
Attorneys for Cox Arizona Telecom, LLC

Thomas H. Campbell, Esq.
Michael T. Hallam, Esq.
LEWIS AND ROCA
40 North Central Avenue
Phoenix, AZ 85004
Attorneys for Time Warner Telecom and WorldCom, Inc.

Richard S. Wolters
AT&T
1875 Lawrence Street, Suite 1503
Denver, CO 80202
Attorneys for TCG Phoenix

Bradley Carroll
Cox Arizona Telcom, LLC
20401 North 29th Avenue
Phoenix, AZ 85027

Brian Thomas
Time Warner Telecom, Inc.
520 S.W. 6th Avenue, Suite 300
Portland, Oregon 97204

Teresa Tan, Senior Attorney
WorldCom, Inc.
201 Spear Street, 9th Floor
Dept. 9976
San Francisco, CA 94105

PHX/1290212.1/67817.290

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IN THE MATTER OF QWEST CORPORATION 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

DIRECT TESTIMONY OF

SCOTT A. MCINTYRE

QWEST CORPORATION

April 11, 2002

DIRECT TESTIMONY OF SCOTT A. MCINTYRE

INDEX OF TESTIMONY

EXECUTIVE SUMMARY

The purpose of this testimony is to provide support for a local service freeze (LSF) program that Qwest desires to make available to its customers. Upon request by Staff, Qwest filed a tariff introducing LSF; however, the Arizona Corporation Commission ("Commission") suspended the tariff on February 26, 2002, after intervention by Cox, Time Warner Telecom of Arizona, and WorldCom and directed the matter to the Hearing Division for an evidentiary hearing.

At its heart, Qwest's LSF protection represents consumer choice. Only the consumer can direct its telecommunications provider to impose a freeze. This offering protects against slamming by giving the customer the choice of contacting Qwest directly when the customer wants to change carriers, and it avoids the possibility of a carrier either inadvertently or fraudulently changing the customer's local account without his or her consent. The program is available at no charge to residential and business customers, as well as Qwest's wholesale customers to offer to their end users, and its purpose is to afford consumers still greater control and choice with respect to their telephone service accounts.

Once in place, the protection can be easily removed through a contact with Qwest, and, importantly, through a three-way call with the new local carrier. During this contact, the Qwest representative simply requests identifying information and confirms the customer's intent to lift the protection. As stated by the FCC, the use of a three-way call permits the customer to lift the freeze during the solicitation call between the customer and the new carrier, thereby easing competitive efforts by local carriers. Qwest will not engage in marketing or "winback" efforts during either the customer-initiated call or the three-way call to lift the protection. Thus, Qwest's local service freeze program meets FCC detailed requirements that balance the interests of consumers and fair competition.

Qwest's local service freeze program need not be placed in a tariff, as it does not meet the parameters for a tariffed service outlined in Arizona law, nor has the FCC required preferred carrier freezes to be tariffed. Long distance preferred carrier freezes have never been filed in the Arizona tariff, and as shown in this testimony, it is not necessary to tariff local service freezes.

As competition escalates, the opportunities for slamming in the local telecommunications market will likely increase, as is evident by what has already occurred in the long distance market. Local competition is present in Arizona and is becoming more prevalent. As consumers become aware of competition, their concern over possible slamming intensifies. The local service freeze is a mechanism that can be used by any local service provider to alleviate this concern and place more control over slamming with Arizona consumers. It's a program that is already available to consumers in a variety of states. In fact, policy makers in several states have mandated that LSF be made available to consumers. The local service protection expands the security measures already available for long distance services and provides consumers with a complete package of protection, if they so choose.

I respectfully request the Commission focus on the consumer benefits associated with a local service freeze and allow the local service freeze proposed by Qwest to go into effect. The FCC has already conducted an extensive review and determined that a local service freeze is an important consumer protection mechanism.

I. INTRODUCTION AND PURPOSE

Q. PLEASE STATE YOUR NAME, TITLE, AND ADDRESS.

A. My name is Scott A. McIntyre. I am employed by Qwest Corporation ("Qwest") as Director – Product and Market Issues. My business address is Room 3009, 1600 7th Avenue, Seattle, WA, 98191.

Q. PLEASE REVIEW YOUR EDUCATION, WORK EXPERIENCE, AND PRESENT RESPONSIBILITIES.

A. I earned a Bachelor of Science degree in Electrical Engineering at the University of Washington in 1974. I have worked for Qwest (formerly U S WEST Communications, Inc. and before that, Pacific Northwest Bell) since 1970. In the past 31 years, I have held many positions that have given me a broad understanding of the telecommunications business. I have experience in the installation and repair of local residence and business telephone services. I also have experience in analyzing and planning new central office equipment and interoffice network facilities. I have performed cost analyses on many aspects of the business and analyzed departmental budgets in great detail. From 1987 to 1999, I managed private line voice and data products. This included the development, pricing and marketing for a wide range of products serving business customers across Qwest's fourteen-state region.

Since July 1999, I have been in my current position, representing Qwest on issues involving various services. I also represent Qwest on issues concerning competition and performance measures. This wide range of experience has provided me with an understanding of how services are provided, and the pricing and marketing necessary for these services to be successful.

Q. HAVE YOU TESTIFIED IN ARIZONA PREVIOUSLY?

A. Yes, I testified in Docket T-01051B-99-0105, Qwest's 1999 rate case proceeding. I have also testified on several different occasions in Oregon, Washington, Colorado, New Mexico, Utah, Wyoming, Nebraska, Iowa, and Minnesota.

Q. WHAT IS THE PURPOSE OF YOUR TESTIMONY?

A. The purpose of my testimony is to support the offering of a local service freeze ("LSF") program by Qwest to its customers in Arizona. Qwest planned to make LSF available to Arizona customers in January 2002 and had informed its wholesale customers of that intent. Upon receipt of such notification, Cox Arizona Telcom, L.L.C. ("Cox") filed an application for an order to show cause hearing and injunctive relief with the Arizona Corporation Commission ("Commission") on January 11, 2002 ("Application"). TCG Phoenix, WorldCom, and Time Warner Telecom of Arizona also intervened in the proceeding. Commission Staff requested that Qwest file a tariff describing its LSF program, with which Qwest complied. On February 26, 2002, the Commission suspended Qwest's tariffs and set the matter for evidentiary hearing.

In this testimony, I will describe local service freezes and the processes and procedures Qwest will follow when a customer requests a local service freeze be placed on their account. I will demonstrate that Qwest's procedures are in compliance with methodology established by the FCC. I will also detail the steps customers may take to have a freeze applied to their local service, and what protections are in place before a freeze can be removed. In addition, I will address why it is prudent to allow customers the option of having their local service account frozen at this time and why such implementation cannot be construed as anti-competitive. Indeed, I describe why allowing Arizona consumers the option of placing a hold on their local service account is in the public interest and is an appropriate consumer protection mechanism. I strongly recommend that the local service freeze proposed by Qwest be allowed to go into effect immediately.

II. A LOCAL SERVICE FREEZE ALLOWS CONSUMERS TO PROTECT THEIR ACCOUNT AGAINST SLAMMING

Q. WHAT IS AN LSF?

A. An LSF will allow customers the choice of placing a "hold" or "freeze" on their local service account so that a change in local service providers cannot be made without their authorization. This is the same protection from unauthorized changes in service providers that is currently available to long distance customers. An LSF will be strictly optional for consumers. Qwest will assess no charge to have one applied or removed. An LSF will be available to residential and business customers, as well as to Qwest's wholesale customers to offer to their end users. As consumers become aware of competition, their concern over possible slamming intensifies. The LSF will be a mechanism that can be used to alleviate this concern and place more control over slamming with Arizona consumers.

Q. WILL ARIZONA CONSUMERS BE FORCED TO PLACE A LOCAL SERVICE FREEZE ON THEIR ACCOUNTS IF THEY CHOOSE NOT TO DO SO?

A. No. The LSF will be strictly optional for consumers. No customer's local account will be frozen absent their express consent and independent verification. The LSF will simply be a means of protecting the consumer's account against unauthorized changes, *should they choose to avail themselves of it.* Customers may decide that they are not concerned about their local service being slammed to another carrier. They will not be impacted by the LSF in any way. Customers who *are* concerned, however, perhaps customers who have experienced the inconvenience of being slammed by a long distance carrier, should have the ability to restrict any change to their account. Qwest's proposal provides them with that choice.

Q. WHAT IS SLAMMING?

A. Slamming is the term commonly used to refer to unauthorized changes of a subscriber's preferred carrier. In practice, slamming may occur inadvertently, such as when a service representative hits the wrong computer key and mistakenly changes a customer's provider. It may also be a result of misunderstandings or miscommunication on the part of subscribers themselves. For example, a business's communications manager may authorize a change without making his or her boss aware of it. Unfortunately, there are also those cases where slamming is done in a fraudulent and deceptive manner.

Q. ARE UNAUTHORIZED CHANGES IN SERVICE PROVIDERS A CONCERN OF THIS COMMISSION?

A. Yes. In Docket No. RT 00000J-99-0034, Staff has recommended that the Commission adopt specific consumer protections to prohibit slamming.

> Unauthorized carrier changes and charges are commonly referred to as "slamming and cramming." "Slamming" is changing a customer account from their authorized carrier to an unauthorized carrier, and "cramming" is adding charges for services on a customer's bill without proper authorization. Slamming and cramming are unacceptable business practices that enable companies to benefit at the expense of consumers and competitors.[1]

[1] Memorandum to the Commission from the Utilities Division, November 9, 2001, In the Matter of the Rules to Address Slamming and Other Deceptive Practices, Docket No. RT 00000J-99-0034.

Although LSF is not addressed in the current draft of the proposed rules, the protection afforded consumers through Qwest's LSF offering is consistent with the same issues addressed by the proposed rules and with the stated desire of the Commission to protect Arizona consumers from unscrupulous practices.

Q. HAS THE FEDERAL COMMUNICATIONS COMMISSION RECOGNIZED THE PROBLEMS THAT SLAMMING CAUSES CONSUMERS?

A. Yes. On December 17, 1998, the Federal Communications Commission ("FCC") issued rules governing the steps that carriers must take before changing a customer's telephone service. These rules were the result of volumes of comments and extended proceedings before the FCC (the FCC docket began in 1994). These and related FCC proceedings continued through 1999, 2000, and 2001. The currently effective rules are set forth in Part 64, Subpart K of the FCC rules. See 47 C.F.R. § 64.1100 et seq. In addition, the FCC has established a web page devoted to instructing consumers on the courses of action available to them in the event they are slammed.

Q. DID THE FCC IDENTIFY CARRIER FREEZES AS A MEANS OF PROTECTING CONSUMERS AGAINST SLAMMING?

A. Yes. In the FCC's Second Report and Order and Further Notice of Proposed Rulemaking,[2] the Commission adopted various rules addressing verification of preferred carrier changes and preferred carrier freezes. It also broadened the scope of the verification procedures to apply to changes to local as well as long distance carriers. The FCC recognized that freezes are appropriate

[2] Implementation of the Subscriber Carrier Selection Changes Provisions of the Telecommunications Act of 1996; Policies and Rules Concerning Unauthorized Changes of Consumers Long Distance Carriers, CC Docket No. 94-129, Second Report and Order and Further Notice of Proposed Rulemaking. (Second Report)

and provide an additional and beneficial level of protection for consumers to prevent misunderstandings, errors, and possibly fraud:

> While we are confident that our carrier change verification rules, as modified in this Order, will provide considerable protection for consumers against unauthorized carrier changes, we recognize that many consumers wish to utilize preferred carrier freezes as an additional level of protection against slamming....The Commission, in the past, has supported the use of preferred carrier freezes as a means of ensuring that a subscriber's preferred carrier selection is not changed without his or her consent. Indeed the majority of commenters in this proceeding assert that the use of preferred carrier freezes can reduce slamming by giving customers greater control over their accounts. Our experience, thus far, has demonstrated that preventing unauthorized carrier changes enhances competition by fostering consumer confidence that they control their choice of service providers. Thus, we believe that it is reasonable for carriers to offer, at their discretion, preferred carrier freeze mechanisms that will enable subscribers to gain greater control over their carrier selection.[3]

The FCC subsequently adopted rules that apply to all carriers in order to "provide for the nondiscriminatory solicitation, implementation and lifting of preferred carrier freezes."[4]

Q. DID THE FCC MANDATE SPECIFIC STANDARDS WITH WHICH ALL TELECOMMUNICATIONS CARRIERS OFFERING LSF MUST COMPLY?

A. Yes. FCC rules (See generally 47 C.F.R. § 64.1190) specify:

- An LSF must be offered on a non-discriminatory basis to all customers regardless of carrier selection. 47 C.F.R. § 64.1190(b).

[3] Id., ¶114.
[4] Id., ¶118.

- All LSF solicitations must include clear and neutral language, describing what a freeze is and what services are subject to LSF. 47 C.F.R. § 64.1190(d)(1)(i).
- The offer must clearly distinguish among the services to which any freeze is applied (i.e., local, intraLATA, interLATA and international services), and a separate authorization is required for each. 47 C.F.R. § 64.1190(c).
- Any solicitation must also explain the procedures for lifting the freeze and that the carrier cannot be changed unless the subscriber lifts the freeze. 47 C.F.R. § 64.1190(d)(1)(ii); see also, 47 C.F.R. § 64.1150(a).

Q. DO THE FCC RULES ENSURE THAT THE CUSTOMER'S SELECTION OF A CARRIER FREEZE IS VERIFIED?

A. Yes. The customer's decision to establish an LSF must be verified in accordance with 47 C.F.R. § 64.1190(d)(2)(i) through (iii) and 47 C.F.R. § 64.1190(d)(3)(ii)(A) through (D). The FCC requires that any written or electronically signed authorization from the customer must: (1) be in clear and legible format; (2) include certain customer information; and (3) include a specific request for each service to be frozen. Id. Electronic authorization must be initiated from the customer's telephone number to receive the LSF and include specific authorization data, via automatic number identification or recorded, oral verification. 47 C.F.R. § 64.1190(d)(2)(ii) and (iii). Oral LSF verification may only occur through a qualified, independent third party, who receives no financial incentives and operates in a physically separate location. 47 C.F.R. § 64.1190(d)(2)(iii). Again, these mandated procedures ensure that an LSF cannot be established unless a customer clearly wants and chooses to initiate such a freeze.

The verification process does not include the carrier's marketing or advertising; it simply clearly verifies the customer's decision.[5]

Q. DO FEDERAL RULES ALSO ESTABLISH METHODS FOR LIFTING A PREFERRED CARRIER FREEZE?

A. Yes. The FCC designed the methods for lifting a freeze to be "simple, easily understandable, but secure," in order to avoid concerns about untimely lifting of freezes.[6] These methods allow a customer to lift an LSF by either: (1) calling Qwest directly; (2) calling Qwest while the new carrier is on the line; or (3) providing written or electronically signed authorization. 47 C.F.R. § 1190(e)(1) and (2). Nothing in the LSF prohibits or even limits the customer's ability to change his or her preferred provider; it simply ensures that the customer, not another carrier, makes that choice. Importantly, the three-way call allows the new carrier to conduct the conference call to lift the freeze during the initial telemarketing session with the customer.[7] Also, the call to lift the freeze simply requests information to ascertain the identity of the customer and his or her intention to lift the freeze.[8]

III. THE VALUE TO CONSUMERS OF PREFERRED CARRIER FREEZES IS UNDERSCORED BY THE FACT THAT THREE STATES *REQUIRE* QWEST TO OFFER THEM.

Q. HAVE ANY STATES TAKEN PROACTIVE STEPS TO MAKE LOCAL CARRIER FREEZE PROTECTION AVAILABLE TO THEIR CONSUMERS?

A. Yes. After the FCC adopted its rules permitting the offering of and solicitation of orders for preferred carrier freezes, three of the fourteen states in which

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[5] Second Report, at ¶72.
[6] Id., ¶127
[7] Second Report, ¶129.
[8] Id., ¶132.

Qwest is an incumbent LEC enacted legislation or adopted rules *requiring* Qwest to offer local freezes in order to protect consumers.

Q. SPECIFICALLY, WHICH STATES REQUIRE LOCAL CARRIERS TO OFFER LOCAL SERVICE PROTECTIONS?

A. Three states within Qwest's region require local carriers to offer LSF protection: Washington, Colorado, and Utah. In Washington, the Utilities and Transportation Commission ("WUTC") enacted rules requiring all local exchange carriers ("LECs") to offer preferred carrier freezes. In adopting its rules, the WUTC explained that a preferred carrier freeze is "a valuable tool that consumers can use to protect themselves from carriers that slam. The Commission believes that any tool a consumer can use to protect her or himself should be made available."[9] Indeed, the WUTC requires local carriers to not merely offer freezes, but to notify all customers of the availability of a preferred carrier freeze, no later than the customer's first telephone bill and once per year thereafter.[10] The WUTC specifically rejected requests that the availability of freezes or information about their availability be limited to customers who had previously been slammed: "The Commission believes that if the only customers who find out about this option are customers who have already been slammed, the value is diminished considerably, since damage has already been done. Further, the Commission believes the purpose of a carrier freeze is to allow consumers the choice of protecting themselves from slamming before it occurs."[11] Exhibit SAM-1 is a copy of the Washington rules and the Order issued in January 2000 by the WUTC adopting such rules.

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[9] <u>In the Matter of Amending WAC 480-120-139 Relating to Changes in Local Exchange and Intrastate Toll Services</u>, January 14, 2000, at ¶1.
[10] WAC 480-120-139(5)(a)
[11] <u>In the Matter of Amending WAC 480-120-139 Relating to Changes in Local Exchange and Intrastate Toll Services</u>, January 14, 2000, at ¶2.

In Colorado, each local carrier "*must* offer customers" the option to place a freeze on their account, to prevent a change in the customer's carrier "absent further written authorization initiated by the customer."[12] Further, each carrier must conduct an education program upon initiation of service to a customer that informs the customer of the option to freeze its choice of provider.[13] In responding to a request filed by the Colorado Telecommunications Association that the Colorado Public Utilities Commission ("CPUC") reconsider its Presubscription rules (which included the afore-mentioned preferred carrier freeze rule), the CPUC noted:

> Consumer protection during a transition phase in the telecommunications market is permissible and appropriate. Such protection will speed the transition to a fully competitive marketplace for telecommunications services.[14]

A copy of the relevant Colorado rule is attached to this testimony as Exhibit SAM-2.

Terry Bote, spokesman for the Colorado Public Utilities Commission, commented on the rule in a Denver Rocky Mountain News article which appeared on the heels of Qwest's roll-out of the LSF in that state:

> The intent of the rule is to reduce the opportunity for slamming so customers have a little more protection from unauthorized switching whether it's long distance or local.[15]

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[12] In the Matter of Proposed Amendments to the Rules Regulating the Changing of Presubscription, Rule 25, Rules Regulating Telecommunications Service Providers and Telephone Utilities, 4 CCR.723.2, January 8, 1999, Docket No. 98R-379T.
[13] 4 CCR, §723-2-25.4.1.
[14] In the Matter of Proposed Amendments to the Rules Regulating the Changing of Presubscription, Rule 25, Rules Regulating Telecommunications Service Providers and Telephone Utilities, CCR.723.2, Commission Decision Ruling on Applications for Rehearing, Reargument, and Reconsideration and Adopting Rules, February 26, 1999, Docket No. 98R-379T. The Commission denied CTA's request, and also denied AT&T's request that the Commission delay implementation of the rules.

The Utah legislature enacted a statute that expressly requires LECs to offer preferred carrier freezes to their customers. With the support of the Utah Public Service Commission Chairman Steve Mecham, House Bill 135, Prevention of Unauthorized Telecommunications Provider Change, passed both the Utah House and Senate unanimously before being signed into law. (See Exhibit SAM-3 for a copy of the specific statute.)

Q. IS LOCAL SERVICE PROTECTION ALSO AVAILABLE IN OTHER STATES, BEYOND THESE THREE?

A. Yes. LSF protection is available in five other states within the Qwest region. These states are: Oregon, Idaho, North Dakota, South Dakota, and Wyoming. Additionally, twenty-one states outside of Qwest's region have similar consumer protection options.

That so many state commissions actually require, or at least permit, LECs to offer and provide information about preferred carrier freezes demonstrates that carrier freezes are a "consumer protection device" that increase customer choice and enhance fair competition.[16] That Bell Operating Companies in seven states outside Qwest's region offer local service freezes and have received authorization from their state commissions and the FCC to provide long distance service pursuant to Section 271 of the Act demonstrates that offering of freezes is not anti-competitive or inconsistent with the public interest.

Q. IN WASHINGTON, COLORADO, AND UTAH WHERE LSF'S HAVE BEEN MANDATED, HAS THE MANDATE APPLIED TO <u>ALL</u> LOCAL SERVICE PROVIDERS IN THE STATE?

[15] <u>Qwest Offers Customers Way to Guard Against 'Slamming,'</u> The Denver Rocky Mountain News, February 5, 2002.
[16] Second Report, ¶136.

A. Yes. The rulings were not limited to Qwest. All local service providers operating in those states are required to provide the option of LSF protection to their customers.

Q. FROM A CONSUMER'S PERSPECTIVE, WHY IS SLAMMING SUCH A CONCERN?

A. Most of the time, consumers don't discover they have been slammed until it's after the fact. They may receive a bill from an unfamiliar carrier, assessing charges for services they thought they were receiving from their selected carrier. The rates charged by the unauthorized carrier may be higher than those charged by their preferred carrier and may contain surcharges that the consumer was unaware of and certainly didn't expect to be paying. At that point, consumers are suddenly – through no fault of their own - faced with the unpleasant and time-consuming task of getting the problem corrected.

In addition to the feeling of violation and loss of control over their account, the burden is unjustly placed on the consumer to rectify the problem. Despite the educational materials that are available, most consumers do not familiarize themselves with how to deal with slamming prior to it becoming a problem for them. Once they discover slamming has occurred, they are forced to deal with such questions as:

- Who should they call to get the problem fixed – their preferred carrier, or the carrier who slammed them? What are the respective carriers' telephone numbers?
- What do they do about the charges they didn't authorize? They made the calls but the rates are higher than they expected. Do they pay the higher rates to the slamming carrier, pay what they think they should owe to their original

carrier, or refuse to pay anything at all until the problem is straightened out?

- If they decide not to pay any of the charges, will it reflect negatively on their credit rating and possibly even impact future buying decisions?
- What do they do if they did not discover the slamming until *after* they had paid their bill? How do they get the money back from the unauthorized carrier and into the hands of their authorized carrier?
- How do they stop this from happening again?

To get the matter resolved can sometimes take days or weeks, and may often result in months of dealing with billing disputes. It can also be a very frustrating and irritating process. Furthermore, while long distance slamming is certainly an inconvenient hassle from the consumer's perspective, it is seldom as serious as the possible consequences of local service slamming which carries the very real risk of a customer being left completely without telephone service.

Q. ARE CONSUMERS CHOOSING THE LOCAL FREEZE OPTION IN THOSE STATES WHERE IT HAS BEEN AVAILABLE?

A. Yes. Residence and business customers have chosen to add this form of slamming protection on over 115,000 lines in the Qwest states where the protection mechanism has been available. In the states where Qwest is required to offer LSF (Colorado, Utah, and Washington), customers have placed LSF on over 81,000 lines since November, 2001, a high percentage of which are residential customers (as opposed to business customers). Qwest's independent third-party verifier currently reports approximately 300 customer LSF requests per day. It is Qwest's experience in the states where

LSF is available that customers desire the added protection and are using it as a safeguard against unauthorized changes to their account.

Q. HAVE CONSUMER ORGANIZATIONS ATTEMPTED TO EDUCATE CONSUMERS ABOUT LOCAL SERVICE SLAMMING AND FREEZE PROTECTION?

A. Yes. Exhibit SAM-4 is a bulletin distributed online by the National Fraud Information Center concerning scams against businesses. The document clarifies that slamming can be associated with local telephone service:

> While long distance service is the most common target of slamming, your local phone service may be slammed if there is local competition in your area.

The organization then urges readers to request "freezing" phone service to prevent service from being switched unless the customer has directly confirmed the change.

Exhibit SAM-5 is another consumer bulletin available on the Web. This one, distributed by the National Consumer League, also enlightens customers about the potential for slamming in the local arena:

> It (slamming) used to be limited to long distance service. But as competition expands to local toll and local service, slamming is expanding as well. Some consumers and small businesses have had their long distance and local toll service slammed at the same time!

Q. HAVE STATE REGULATORS ALSO ISSUED NOTICES TO MAKE CONSUMERS AWARE OF THE PITFALLS OF SLAMMING, INCLUDING LOCAL SLAMMING, AND THE REMEDY AFFORDED BY A FREEZE?

A. Yes. Various state Commissions, including the Wyoming Public Service Commission, the Public Utilities Commission of Nevada, the Georgia Public Service Commission, and the Idaho Public Utilities Commission have issued consumer bulletins alerting the public to the dangers of slamming. Each of these state commissions has acknowledged that slamming may include local service. Some inform customers that incidents of slamming will increase as competition escalates. All of the commissions cited encourage their constituents to avail themselves of the freeze option to protect their accounts. Exhibit SAM-6 contains just a brief sampling of such material distributed online by state regulators.

IV. QWEST'S LOCAL SERVICE FREEZE PROTECTION IS ADMINISTERED CONSISTENT WITH FCC REQUIREMENTS

Q. HOW DOES QWEST PROPOSE TO MAKE CUSTOMERS AWARE OF THE LSF OPTION?

A. Customers will be informed of the local service freeze, local long distance freeze, and interLATA long distance freeze options when they contact Qwest business offices to order new service, move existing service to a new location, or add new lines.[17] The proposed script to be used by Qwest service representatives when offering a freeze is as follows:

> We offer free protection to ensure that your provider of local service, long distance service, and local long distance service cannot be changed unless you contact us directly. You may remove this protection from your account at any time by contacting Qwest directly with a verbal, written, or electronically signed authorization. Would you be interested in setting that up now?

[17] Customers who contact the business office for the sole purpose of establishing a carrier freeze will be advised as to the purpose of third party verification and will then be transferred directly to the independent third party verifier.

This is the same script used by Qwest in those states where LSF has already been implemented. In addition, Qwest plans to distribute a bill insert. A proposed bill insert is attached as Exhibit SAM-7.

Q. WILL THESE METHODS OF INFORMING CUSTOMERS ABOUT THE LSF PROTECTION CONFORM TO FCC RULES?

A. Yes. The FCC rules governing the solicitation of slamming protections prevent anti-competitive practices and make certain that the customer is informed when choosing the freeze.[18] Any information or materials provided to the customer relating to carrier freezes must contain the following:

- An explanation, in clear and neutral language, of what a preferred carrier freeze is and what services may be subject to a freeze;
- A description of the specific procedures necessary to lift a preferred carrier freeze; an explanation that these steps are in addition to the Commission's verification rules in Secs. 64.1150 and 64.1160 for changing a subscriber's preferred carrier selections; and an explanation that the subscriber will be unable to make a change in carrier selection unless he or she lifts the freeze; and
- An explanation of any charges associated with the preferred carrier freeze.[19]

All information provided to Qwest customers concerning the availability of the LSF option will meet each of the foregoing requirements.

Q. WHAT WILL HAPPEN AFTER THE CUSTOMER INDICATES THEY WOULD LIKE THE FREEZE(S) ADDED TO THEIR ACCOUNT?

[18] Second Report, ¶121.
[19] 47 C.F.R. § 64.1190(d)(1)

A. Once the customer indicates to the Qwest service representative that they would like the freeze(s) added to their account, the service representative will advise the customer as to the purpose and nature of the third party verifier ("TPV"). Once that discussion takes place, the customer will be transferred to the TPV.

Q. WILL THE CUSTOMER SELECTING THE FREEZE ALWAYS BE REFERRED DIRECTLY TO A THIRD PARTY VERIFIER?

A. No. Customers will also have the option of completing a written Letter of Authorization ("LOA") in lieu of third party verification. Businesses with many lines to be transferred typically use the written method of verification, as do some residential customers who want a written record of the transaction. In fact, Qwest's policy in other states where LSF is available is that a written LOA must be completed on any business accounts with more than sixty lines. This is done to reduce the potential for error on multi-line accounts. In the case of a written LOA, the LOA form will be faxed to the customer who will then return the completed form to the TPV.

Q. ONCE THE CUSTOMER REACHES THE TPV, WHAT WILL HAPPEN NEXT?

A. The representative from the TPV will identify him or herself and explain why they are involved in the customer's decision. They will request the customer's billing telephone number, the billing name on the account, the billing address, and identification of the person to whom they are speaking. The customer will then be asked to confirm that they are authorized to make decisions on their telephone service. The TPV representative will confirm that there is no charge for establishing a freeze, or for lifting a freeze. The customer will then be asked to identify the specific service(s) for which they want a freeze. The customer must separately identify each service and will be required to confirm that each service is the service for which a freeze has been authorized or requested. The customer will be asked to state each telephone number to which the freeze is to apply. If multiple services or multiple telephone numbers are identified, the TPV representative will confirm with the customer the type of freeze requested for each. The TPV representative will then review with the customer that once a freeze is in place, the service provider cannot be changed unless the customer contacts Qwest directly by telephone, or by submitting written authorization that the freeze is to be removed.

If the customer fails to respond or confirm the requested information or fails to provide the requested data, the freeze will not be completed. If all data is provided as requested and confirmation is obtained, the freeze will be added to the customer's account and the customer will be provided a due date for completion of the order.

The purpose of these verification procedures is to ensure that the added protections are the result of the customer's voluntary and affirmative choice. Customers will never be "forced" to acquire the protection. Qwest's methods and procedures for applying a local service freeze will comply fully with the FCC's rules.

Q. PLEASE DESCRIBE THE STEPS A CUSTOMER WILL FOLLOW TO REMOVE AN LSF.

A. A customer will be able to remove the LSF at any time. Most likely, the customer will contact the business office to remove an LSF, just as they would to make any change to an existing service.[20] The service representative will issue an order to have the LSF removed, after verifying that the person requesting the removal is authorized to make changes to the account. If the customer wants to remove both the LSF and the local long distance and/or interLATA long distance freeze, the service representative will immediately remove the LSF, and then transfer the customer to the Carrier Service Bureau for removal of the long distance freeze(s).

Q. HOW LONG WILL IT TAKE TO REMOVE THE FREEZE?

A. The freeze will be removed the same day the removal request is received and the customer will be notified of this during the call.

Q. IT APPEARS IT WILL BE MUCH EASIER TO REMOVE A FREEZE THAN TO ESTABLISH A FREEZE ON AN ACCOUNT, IS THAT CORRECT?

A. Yes. As described above, a customer choosing to place a freeze on their local service account must have their decision verified and confirmed by an independent third party or submit a written LOA. This will be done to ensure that the action is being performed at the customer's request. This will prevent carriers from placing a freeze on a customer's account indiscriminately on an anti-competitive basis.

To remove the freeze will require only a call to Qwest. When customers sign up for LSF, they will be fully informed that this is what the freeze does – it stops anyone else from changing their preferred carrier by requiring their authorization before a change can be made. Without this step, there would be no safeguard or protection associated with the LSF – in other words, there would be no value to the customer having a freeze placed on their account. Consumers will choose the LSF with full knowledge and agreement that it will only be lifted upon their direct authorization. This will provide customers who desire it more control over their respective accounts.

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[20] Customers will also be able to submit a signed, written request to Qwest to lift the freeze. 47 C.F.R. §

Q. WHEN A CUSTOMER CONTACTS QWEST TO REMOVE THE FREEZE FROM AN ACCOUNT, WILL QWEST ENDEAVOR TO KEEP THE CUSTOMER WITH QWEST?

A. No. Qwest will not conduct retention marketing of any kind when contacted by a customer to remove the LSF, or during three-way calls to lift the freeze.

Q. IF A QWEST CUSTOMER WITH AN LSF CONTACTS A CLEC TO ESTABLISH SERVICE BEFORE REMOVING THE FREEZE, WILL THE CLEC BE ABLE TO FULFILL THE CUSTOMER'S REQUEST?

A. Yes, a CLEC will be able to complete the customer's order after the customer has contacted Qwest and lifted the protective freeze. The sole purpose for a "preferred carrier freeze" is to prevent a carrier switch without the customer first authorizing it. If any anonymous third party could lift a freeze, the essence of the preferred carrier protection would be eviscerated. Afterall, it is this very check that will provide the security and peace of mind to the customer desiring to avoid the pitfalls of slamming. In the Denver Rocky Mountain News article referenced earlier, Ken Reif, director of the Colorado Office of Consumer Counsel, observed that local phone competitors also have the option of placing an LSF on their customers' accounts:

> We certainly don't have any objection. If you're a consumer and worried about having your service switched without authorization, this (local service freeze) is a good service.

Q. DOES QWEST ALSO FACE THE POSSIBLE SITUATION OF CUSTOMERS HAVING LSF WITH ANOTHER COMPANY WHEN APPLYING FOR SERVICE?

64.1190(e).

A. Yes, Qwest may encounter the same situation when customers of CLECs who have an LSF on their account contact Qwest to have service switched to Qwest. Before service can be established, the customer is informed that they must contact their present local service provider to have the freeze lifted. Exhibit SAM-8 is a sample letter sent to customers switching to Qwest who have not removed their LSF with the other CLEC. Contrary to hindering competition, the LSF is a competitively neutral consumer protection option that all telecommunications providers can make available to their customers, should they choose to do so.

Q. WILL CLECS BE ALLOWED TO BE ON THE LINE WHEN A CUSTOMER CONTACTS QWEST TO HAVE THE LSF REMOVED FROM THEIR ACCOUNT?

A. Yes. The customer and the CLEC will be provided the due date for the freeze removal, as establishment of new service with the CLEC may hinge on when the freeze will be removed. A three-way call is in conformance with FCC rules regarding removal of preferred carrier freezes. Specifically, the rules state:

> All local exchange carriers who offer preferred carrier freezes must, at a minimum, offer subscribers the following procedures for lifting a preferred carrier freeze:
>
> (1) A local exchange carrier administering a preferred carrier freeze must accept a subscriber's written and signed authorization stating her or his intent to lift a preferred carrier freeze; and
>
> (2) A local exchange carrier administering a preferred carrier freeze must accept a subscriber's oral authorization stating her or his intent to lift a preferred carrier freeze and must offer a mechanism that allows a submitting carrier to conduct a three-way conference call with the carrier administering the freeze and the subscriber in order to lift a freeze. When engaged in

> oral authorization to lift a preferred carrier freeze, the carrier administering the freeze shall confirm appropriate verification data (e.g., the subscriber's date of birth or social security number) and the subscriber's intent to lift the particular freeze.[21]

Q. WILL AN LSF MAKE IT MORE DIFFICULT FOR A CUSTOMER TO SWITCH TO A QWEST COMPETITOR?

A. No. The protection will not prohibit customers from making voluntary changes to their service or telecommunications provider at any time. Charts depicting a high level overview of the process to be followed when establishing and removing an LSF are attached as Exhibit SAM-9.

V. A LOCAL SERVICE FREEZE IS NOT ANTI-COMPETITIVE

Q. WHAT IS THE STATED PURPOSE OF THE FCC'S RULES TO IMPLEMENT SECTION 258 OF THE TELECOMMUNICATIONS ACT OF 1934?

A. In its Second Report and Order, the FCC explained the intent of its rules:

> Section 258 makes it unlawful for any telecommunications carrier to "submit or execute a change in a 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." The goal of Section 258 and this Order is to eliminate the practice of "slamming."[22]

In Paragraph 119 of the Order, the Commission expounded on the purpose of its rules:

> We conclude, and codify in our rules implementing section 258 of the Act, <u>that preferred carrier freezes should be implemented</u>

[21] 47 C.F.R. § 1190 (e) (1) and (2).
[22] Second Report, ¶1.

> on a nondiscriminatory basis so that LECs do not use freezes as a tool to gain an unreasonable competitive advantage. (emphasis added)

Thus, so long as Qwest complies with the FCC's rules, its offer of a LSF cannot be anti-competitive.

Q. HAS THE FCC REJECTED CLAIMS THAT PREFERRED CARRIER FREEZES ARE "ANTI-COMPETITIVE?"

A. Yes. In its Second Report and Order, the FCC concluded that preferred carrier freezes are lawful and actually "enhance competition":

> [W]e recognize that many consumers wish to utilize preferred carrier freezes as an additional level of protection against slamming....The record demonstrates that LECs increasingly have made available preferred carrier freezes to their customers as a means of preventing unauthorized conversion of carrier selections. The Commission, in the past, has supported the use of preferred carrier freezes as a means of ensuring that a subscriber's preferred carrier selection is not changed without his or her consent. Indeed, the majority of commenters in this proceeding assert that the use of preferred carrier freezes can reduce slamming by giving customers greater control over their accounts. Our experience, thus far, has demonstrated that preventing unauthorized carrier changes enhances competition by fostering consumer confidence that they control their choice of service providers. Thus, we believe it is reasonable for carriers to offer, at their discretion, preferred carrier freeze mechanisms that will enable subscribers to gain control over their carrier selection.[23] (emphasis added)

Contrary to assertions made by Cox in its Application, the FCC continues to authorize and support the use of such freezes for both interstate and intrastate services in order to protect customer choice and to promote competition:

[23] Id., ¶114. See also Id. at ¶81.

> Indeed, we remain convinced of the value of preferred carrier freezes as an anti-slamming tool. We do not wish to limit consumer access to this consumer protection device because we believe that promoting consumer confidence is central to the purposes of section 258 of the Act. As with most of the other rules we adopt today, the uniform application of the preferred carrier freeze rules to all carriers and services should heighten consumers' understanding of their rights. We note the strong support of those consumer advocates that state that the Commission should not delay the implementation of preferred carrier freezes. We also expect that our rules governing the solicitation and implementation of preferred carrier freezes, as adopted herein, will reduce customer confusion and thereby reduce the likelihood that LECs will be able to shield their customers from competition.[24]

In its Order, the FCC carefully "balance[d] several factors, including consumer protection, the need to foster competition in all markets, and [its] desire to afford carrier flexibility in offering their customers innovative services such as preferred carrier freeze programs. Moreover, in so doing...[the FCC] facilitate[s] customer choice of preferred carrier selections and adopt[s] and promote[s] procedures that prevent fraud."[25] The FCC concluded that the most effective way to ensure that preferred carrier freezes are used to protect consumers, rather than as a barrier to competition, was not to prohibit them, but "to ensure that subscribers fully understand the nature of the freeze including how to remove a freeze if they choose to employ one."[26]

Q. DO THE STANDARDS FOR PREFERRED CARRIER FREEZES ESTABLISHED BY THE FCC APPLY ONLY TO QWEST?

A. No. All telecommunications carriers offering preferred carrier freezes must comply with these rules.

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[24] Id., ¶136.
[25] Id., ¶113.

Q. WILL LSF'S BE AVAILABLE TO QWEST'S WHOLESALE CUSTOMERS AS WELL AS TO ITS RETAIL CUSTOMERS?

A. Yes. The customer of record will place the LSF on the end-user account. The customer of record may be a CLEC, a Reseller, or a Qwest retail end user. In the thirteen states where the LSF has been available to Qwest customers, over 4,600 wholesale lines have had an LSF applied, at the customer's request.

Q. ARE OTHER LOCAL TELECOMMUNICATIONS COMPANIES IN ARIZONA OFFERING LSF'S?

A. Yes. Exhibit SAM-10 is a form McLeod has used for its customers to complete when requesting an LSF. Also included in Exhibit SAM-10 is a copy of another local exchange provider's LSF tariff (SBC Telecom, Inc.). SBC's tariff states:

> PCF (Preferred Carrier Freeze) allows Customers to designate their local long distance (intraLATA) provider, long distance (interLATA) provider, and a local exchange service provider as permanent choices which may not be changed absent further authorization from the Customer.

SBC's tariff became effective by operation of law on December 17, 2000. Qwest's proposed LSF tariff appears to be substantially similar to the SBC tariff for PCF. Any review of the appropriateness of preferred carrier freezes in Arizona should involve *all* carriers who offer or might offer an LSF, not just Qwest.

Q IS IT POSSIBLE FOR ANY LOCAL SERVICE PROVIDER TO OFFER THE LSF PROTECTION TO ITS CUSTOMERS?

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[26] Id., ¶121.

A. Yes, regardless of whether the CLEC is a facilities-based provider or a reseller, any CLEC can offer the same protection to its customers that Qwest is proposing be available to its customers, as long as the CLEC agrees to follow the FCC rules regarding preferred carrier freezes.[27] As is apparent from the material included in Exhibit SAM-10, other local carriers in Arizona are already offering similar protection.

Q. DO THE FCC RULES WHICH ADDRESS THE MEANS BY WHICH CUSTOMERS MAY BE INFORMED OF PREFERRED CARRIER FREEZES ENSURE THAT THEY ARE NOT ANTI-COMPETITIVE?

A. Yes. In addition to rejecting CLEC claims that preferred carrier freezes should be banned, the FCC likewise rejected requests that it prohibit the "solicitation" of orders for freezes: "[w]e decline those suggestions that we prohibit LECs from taking affirmative steps to make consumers aware of preferred carrier freezes because we believe that preferred carrier freezes are a useful tool in preventing slamming.[28] The FCC adopted a number of specific rules governing the solicitation of orders for preferred carrier freezes[29], and "decline[d]" the suggestions of CLECs that it "prohibit incumbent LECs from soliciting or implementing preferred carrier freezes for local exchange or intraLATA services until competition develops in a LEC's service area.[30] The FCC reiterated its expectation that its rules governing the solicitation and implementation of preferred carrier freezes "will reduce customer confusion and thereby reduce the likelihood that LECs will be able

[27] See Second Report and Order, ¶ 120 (recognizing that CLECs have "the same incentives to discriminate in the provision of preferred carrier freeze service to the customers of competitors.").
[28] Id., ¶124. See also id. at ¶81 ("With the advent of competition in the provision of local exchange and intraLATA toll services, ... we anticipate an even greater incidence of slamming generally if effective rules are not put into place. State commissions are already receiving complaints concerning local service slamming.").
[29] *Such as those described in Section IV of this testimony.*
[30] Second Report, ¶135.

to shield their customers from competition," and that it "remain[ed] convinced of the value of preferred carrier freezes as an anti-slamming tool."[31]

VI. LOCAL SERVICE FREEZE PROTECTION DOES NOT REQUIRE A TARIFF FILING

Q. ON WHAT BASIS DO YOU MAINTAIN THE LSF DOES NOT NEED TO BE FILED IN A TARIFF?

A. A.A.C. R14-2-501(20) defines "tariffs" as "[T]he documents filed with the Commission which list the utility services and products offered by the utility and which set forth the terms and conditions and a schedule of the rates and charges for those services and products." Additionally, A.A.C. R14-2-1102(16) defines a "telecommunications service" as "[A]ny transmission of interactive switched and non-switched signs, signals, writing, images, sounds, messages, data, or other information of any nature by wire, radio, lightwave, or any other electromagnetic means (including access services), which originate and terminate in this state and are offered to or for the public, or some portion thereof, for compensation." See also, A.A.C. R14-2-1102(8) (defining "local exchange service"). The language used by the FCC in its rules and the Second Report and Order expressly distinguishes "services" from "preferred carrier freezes," using terms such as "program," "mechanism," or "tool" to describe the process.[32] Clearly, the availability of LSF is not a service, but rather a procedure for or method of consumer protection, offered without charge.

Neither the Commission or the FCC has ever required that customer freeze procedures be placed in a tariff. Since the late 1980's, Qwest has offered a freeze on customers' choices of interLATA carriers without any tariff. To the

[31] Id., ¶136.
[32] See e.g., Second Report, ¶113, ¶117, ¶127, and ¶133.

best of my knowledge, the same can be said for other carriers operating in the state. At the time equal access was implemented for intraLATA service in Arizona in 1996, the Commission approved the offering of freezes in connection with local long distance service without the requirement to file a tariff. Qwest's proposed LSF does not differ materially from any of these other freezes currently offered in Arizona. In each case, a customer may request to place a freeze on their account, and that request must be properly verified by the company administering the freeze in accordance with federal law. Once this has been done, the carrier cannot be changed until the customer contacts the administering company directly to lift the freeze. If a requirement to file a tariff is deemed necessary, it should be mandated for all companies, not just Qwest.

Q. DO THE COMMISSION'S DRAFT RULES ON SLAMMING AND CRAMMING ARTICULATE THE REQUIREMENT TO FILE A TARIFF FOR PREFERRED CARRIER FREEZES?

A. No. The Commission's draft rules on slamming and cramming, and the workshops conducted thereon, are a further indication that neither the Staff or the Commission intended to require the filing of any preferred carrier freeze as a tariff. In the numerous comments submitted by Qwest, other ILECs, CLECs (including Cox), long distance carriers, and wireless providers, regarding the proposed slamming and cramming rules, no party ever proposed an additional requirement that carriers must file a tariff for preferred carrier freezes.

Q. DESPITE ITS POSITION ON TARIFFING, HAS QWEST FILED A TARIFF FOR LSF IN ARIZONA?

A. Yes, although Qwest does not agree that LSF is a service or a product, or that a tariff filing is required, at the request of Staff, Qwest submitted a tariff filing on January 28, 2002 to amend its terms and conditions and permit customers the option of instituting a freeze of their local service provider. Qwest maintains that if a tariff filing is required for its LSF offering, a similar requirement should be imposed on all carriers in a nondiscriminatory manner consistent with FCC rules and decisions. (See Second Report and Order, ¶120, clarifying that its standards for preferred carrier freezes apply to all local exchange carriers and rejecting the imposition of additional requirements on incumbent LECs.)

Q. HAS QWEST IMPLEMENTED LSF PROTECTION IN ARIZONA AS IT HAS IN OTHER STATES?

A. No. At the time Qwest agreed to submit a tariff for LSF, it also agreed to delay implementation until such time that the Commission deliberated on the matter. The immediate proceeding is a result of the Commission's decision reached at the February 27, 2002 Open Meeting wherein the Commission suspended Qwest's proposed tariff and set it for investigation.

VII. THE LEVEL OF LOCAL COMPETITION SHOULD NOT BE A DETERMINANT FOR IMPLEMENTING LSF

Q. SHOULD THE COMMISSION WAIT UNTIL MORE OCCURRENCES OF LOCAL CARRIER SLAMMING ARE DOCUMENTED BEFORE ALLOWING ARIZONA CONSUMERS PROTECTION AGAINST SUCH SLAMMING?

A. No. That is analogous to the old adage about closing the barn door after the horse has bolted. By then, it's too late. For many years, consumers have been unfortunate victims of slamming in the long distance arena. As competition escalates in the local market, slamming is likely to become more prevalent there. Partnering together, local telephone companies and state commissions can work to ensure that consumers need not experience slamming by providing them with protection afforded by placing a freeze on their local account. As the Washington Commission stated in its Order establishing the freeze for its constituents: "The Commission believes the purpose of a carrier freeze is to allow consumers the choice of protecting themselves from slamming before it occurs."[33] Qwest is proposing to make the LSF available now, before such concerns become a significant issue in Arizona as the competitive market continues to develop and intensify.

Q. SHOULD THE LEVEL OF COMPETITION BE A DETERMINANT FOR IMPLEMENTING LSF?

A. No. The mere existence of competition should be sufficient to provide consumers with the option. If slamming is not an issue in Arizona and consumers feel secure, then they won't place an LSF on their account.

Q. IT IS REASONABLE THEN, IS IT NOT, TO EXPECT THAT AS COMPETITORS AGGRESSIVELY MARKET THEIR SERVICES, CONSUMER CONCERN OVER SLAMMING WILL INCREASE?

A. Yes. Whether consumers experienced the pain of slamming first hand with their long distance service, or know someone who did, most are knowledgeable about the problems slamming can cause. As they become aware of competitive activity in the local market, through television or newspaper advertisements, news reports, or by direct contact with a competitor, consumers will want to protect themselves from the harm that slamming can cause. The LSF is designed as a tool consumers can use to alleviate this concern.

VIII. CONCLUSION

Q. IS THE LSF IN THE BEST INTEREST OF ARIZONA CONSUMERS?

[33] In the Matter of Amending WAC 480-120-139 Relating to Changes in Local Exchange and Intrastate Toll Services, January 14, 2000, at ¶2.

A. Yes. The availability of a local service freeze permits customers to proactively prevent slamming and to choose to directly control their local telecommunications service provider. Qwest has done its part to effect methods and procedures that conform to FCC rules. I respectfully request the Commission allow LSF to be made available to Qwest's Arizona consumers.

Q. DOES THIS CONCLUDE YOUR TESTIMONY?

A. Yes, it does.

BEFORE THE ARIZONA CORPORATION COMMISSION

WILLIAM A. MUNDELL
Chairman
JIM IRVIN
Commissioner
MARC SPITZER
Commissioner

IN THE MATTER OF QWEST CORPORATION 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

EXHIBITS OF

SCOTT A. MCINTYRE

QWEST CORPORATION

April 11, 2002

INDEX OF EXHIBITS

Arizona Corporation Commission
Qwest – SAM-1
Exhibits of Scott A. McIntyre
Page 1 of 12
April 11, 2002

WASHINGTON UTC UTILITIES AND TRANSPORTATION COMMISSION

Home Page | Contacts | Search

Online Document

General Info

Document Name: **980675** - Order Amending and Adopting Rules Permanently
Description: Order Amending and Adopting WAC 480-120-139 Relating to Changes in Local Exchange and Intrastate Toll Services

Body

Filed with the Code Reviser
on January 14, 2000
WSR #00-03-047

BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION
In the Matter of Amending WAC 480-120-139

Relating to Changes in Local Exchange and Intrastate Toll Services

STATUTORY OR OTHER AUTHORITY: The Washington Utilities and Transportation Commission (Commission or WUTC) takes this action under Notice WSR #99- 21-057, filed with the Code Reviser on October 19, 1999. This Commission bring this proceeding pursuant to RCW 80.01.040(4); RCW 80.04.160.

STATEMENT OF COMPLIANCE: This proceeding complies with the Open Public Meetings Act (chapter 42.30 RCW), the Administrative Procedures Act (chapter 34.05 RCW), the State Register Act (chapter 34.08 RCW), the State Environmental Policy Act of 1971 (chapter 34.21C RCW), and the Regulatory Fairness Act (chapter 19.85 RCW).

DATE OF ADOPTION: The Commission adopts this rule with the filing of this order. The Commission conducted a rulemaking hearing pursuant to notice in WSR #99-21-057 on November 30, 1999.

CONCISE STATEMENT OF PURPOSE AND EFFECT OF THIS RULE: A change of a consumer=s telecommunications carrier without the consumer=s authorization is commonly known as Aslamming.@ This rule describes the process each telecommunications carrier must follow in order to accept and verify a consumer=s desire to change telecommunications carriers; the process telecommunications carriers must follow in order to affect the change in carriers. The rule also provides consumers with the opportunity to Afreeze@ their telecommunications carrier choice, so that no change may be made without direct written or verbal consent by the consumer.

REFERENCE TO AFFECTED RULES: This rule amends Washington Administrative Code 480-120-139 Changes in local exchange and intrastate toll services.

PREPROPOSAL STATEMENT OF INQUIRY AND ACTIONS THEREUNDER: The Commission filed a Preproposal Statement of Inquiry (CR-101) on July 16, 1998, at WSR # 98-15-093.

ADDITIONAL NOTICE AND ACTIVITY PURSUANT TO PREPROPOSAL STATEMENT: The statement advised interested persons that the Commission was considering entering a rulemaking relating to changes in local exchange and intrastate toll services. The Commission also informed persons of the inquiry into this matter by providing notice of the subject and the CR-101 to all persons on the Commission=s list of persons requesting such information pursuant to RCW 34.05.320(3), by sending notice to all registered telecommunications companies, and by providing notice to the Commission=s list of telecommunications attorneys.

Pursuant to the notice, the Commission held a workshop on August 14, 1998. The Commission solicited and received written comments on August 14, 1998, as well. On June 21, 1999, the Commission asked for additional comments based on Commission Staff discussion draft language. The Commission received comments by the due date of July 15, 1999.

NOTICE OF PROPOSED RULEMAKING: The Commission filed a notice of Proposed Rulemaking (CR-102) on October 19, 1999, at WSR #99-21-057. The Commission scheduled this matter for a rulemaking hearing under Notice WSR #99-21-057 at 9:30 a.m., Tuesday, November 30, 1999, in the

Commission=s Hearing Room, Second Floor, Chandler Plaza Building, 1300 South Evergreen Park Drive SW, Olympia, Washington. The Notice also provided interested persons the opportunity to submit written comments to the Commission.

COMMENTERS (WRITTEN COMMENTS): The Commission received written comments from Robert S. Snyder on behalf of Whidbey Telephone Company (Whidbey); Ms. Yvette Melendez; GTE Northwest Inc. (GTE-NW); Sprint Corporation on behalf of Sprint Communications LP and United Telephone Company of the Northwest (Sprint); MCI WorldCom (MCI); AT&T; SBC National Inc (SBC); Davis Wright Tremaine LLP on behalf of NEXTLINK Washington Inc. (Nextlink) and Advanced TelCom Group Inc. (ATG); Telecommunications Resellers Association (TRA); and the Public Counsel Section of the Washington Attorney General (Public Counsel).

Based on the comments received, Commission Staff suggested changes to the proposed rules without changing the intent of the rules.

RULEMAKING HEARING: The rule changes were considered for adoption, pursuant to the notice, at a rulemaking hearing scheduled during the Commission=s regularly scheduled open public meeting on October 28, 1998, before Chairwoman Marilyn Showalter and Commissioner William Gillis. The Commission heard oral comments from Vicki Elliott, Glenn Blackmon, and Bob Wallis, of Commission Staff; Simon ffitch representing Public Counsel; Robert Snyder representing Whidbey; Greg Kopta, Davis Wright Tremaine LLP, on behalf of NEXTLINK Washington Inc. (Nextlink) and Advanced TelCom Group Inc. (ATG); Richard Finnegan, Attorney; and Terry Vann representing the Washington Independent Telephone Association.

SUGGESTIONS FOR CHANGE THAT ARE REJECTED: Although all participants worked diligently to achieve consensus, the participants and Commission Staff did not reach complete agreement in all areas. The two main areas where participants and Staff did not reach agreement were the following.

<u>1. The requirement that companies offer a preferred carrier freeze.</u> Several participants commented that the requirement that companies offer a preferred carrier freeze unnecessarily goes beyond the rules adopted by the Federal Communications Commission (FCC). Commenters stated that this requirement

would promote anti-competitive behavior; present a barrier to entry and effective competition; allow incumbent companies the opportunity to mislead customers; and impose a regulatory burden on competitive companies. The Commission rejects these arguments. While the Commission acknowledges that this requirement goes beyond the FCC rules, it believes there are compelling reasons to do so. A preferred carrier freeze is a valuable tool that consumers can use to protect themselves from carriers that slam. Commission data show that slamming is consistently one of the most frequent consumers complaints about their telephone service. In 1996, the Commission received 186 complaints about slamming; in 1997, the number increased to 228; and in 1998, the number was 475 complaints. The Commission will see an estimated 500 slamming complaints in 1999. The Commission believes that any tool a consumer can use to protect her or himself should be made available.

<u>2. The requirement that companies notify their customers about the option of a preferred carrier freeze.</u> Again, participants commented that this requirement unnecessarily goes beyond the FCC rules, and that it presents an unnecessary burden for the companies. One commenter suggested companies should notify customers only if the customer experienced a slam. The Commission believes that the availability of a carrier freeze is not an effective consumer protection tool if consumers are not aware that it exists. The Commission believes that if the only consumers who find out about this option are customers who have already been slammed, the value is diminished considerably, since damage has already been done. Further, the Commission believes the purpose of a carrier freeze is to allow consumers the choice of protecting themselves from slamming before it occurs.

<u>3. Suggestions made orally at the open meeting.</u> Robert Snyder, representing Whidbey, suggested several changes to the proposed language at the open meeting. His changes were not intended to change the meaning of the language but to clarify the proposed language. After consideration and discussion of Mr. Snyder=s suggestions, the Commission concluded that the proposed language was sufficient, and that none of Mr. Snyder=s suggested revisions need be made.

Mr. Snyder also suggested that WAC 480-120-139(5) pertaining to the requirement that a carrier offer a preferred carrier freeze, and WAC

480-120-139(5)(a) pertaining to the requirement that companies notify their customers about the option of a preferred carrier freeze, be delayed until March 1, 2000, in order to give companies time to implement these requirements. After consideration and discussion, the Commission agreed to delay the effective date as requested for these specific requirements to allow companies time to comply.

STATEMENT OF ACTION: In reviewing the entire record, the Commission determined that WAC 480-120-139 should be amended as proposed by Staff, with the following changes:

1. Minor grammatical changes. The Commission determined that several minor grammatical changes should be made to correct the proposed rules. These changes do not alter the substance of the proposed rules.

2. Change the use of the term Asubscriber@ to the term Acustomer,@ to be consistent with other sections in WAC 480-120. Again, this change does not alter the substance of the proposed rules.

The proposed rules, as revised, are attached as Appendix A.

STATEMENT OF EFFECTIVE DATE: The proposed rule will become effective pursuant to RCW 34.05.380(2) on the thirty-first day after filing with the Code Reviser, except that WAC 480-120-139(5) and WAC 480-120-139(5)(a) shall become effective on March 1, 2000.

ORDER

THE COMMISSION ORDERS That:

1. WAC 480-120-139 is amended and adopted to read as set forth in Appendix A, as a rule of the Washington Utilities and Transportation Commission, to take effect on March 1, 2000.

2. This order and the rule set out below, after being recorded in the register of the Washington Utilities and Transportation Commission, shall be forwarded to the Code Reviser for filing pursuant to chapters 80.01 and 34.05 RCW and chapter 1-21 WAC.

480-120-139(5)(a) pertaining to the requirement that companies notify their customers about the option of a preferred carrier freeze, be delayed until March 1, 2000, in order to give companies time to implement these requirements. After consideration and discussion, the Commission agreed to delay the effective date as requested for these specific requirements to allow companies time to comply.

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2. Change the use of the term Asubscriber@ to the term Acustomer,@ to be consistent with other sections in WAC 480-120. Again, this change does not alter the substance of the proposed rules.

The proposed rules, as revised, are attached as Appendix A.

STATEMENT OF EFFECTIVE DATE: The proposed rule will become effective pursuant to RCW 34.05.380(2) on the thirty-first day after filing with the Code Reviser, except that WAC 480-120-139(5) and WAC 480-120-139(5)(a) shall become effective on March 1, 2000.

ORDER

THE COMMISSION ORDERS That:

1. WAC 480-120-139 is amended and adopted to read as set forth in Appendix A, as a rule of the Washington Utilities and Transportation Commission, to take effect on March 1, 2000.

2. This order and the rule set out below, after being recorded in the register of the Washington Utilities and Transportation Commission, shall be forwarded to the Code Reviser for filing pursuant to chapters 80.01 and 34.05 RCW and chapter 1-21 WAC.

3. The Commission adopts the Commission Staff memoranda, presented when the Commission considered filing a Preproposal Statement of Inquiry, when it

considered filing the formal notice of proposed rulemaking, and when it considered adoption of this proposal, in conjunction with the text of this order, as its Concise Explanatory Statement of the reasons for adoption as required by RCW 34.05.025.

DATED at Olympia, Washington, this 14th day of January, 2000.
WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

MARILYN SHOWALTER, Chairwoman

RICHARD HEMSTAD, Commissioner

APPENDIX A

WAC 480-120-139 Changes in local exchange and intrastate toll services.

(1) Verification of orders. A local exchange or intrastate toll carrier that requests on behalf of a customer that the customer=s telecommunications carrier be changed, and that seeks to provide retail services to the customer (Asubmitting carrier@) ~~to whom service is being changed ("new telecommunications company")~~ may not submit a change order for local exchange or intrastate toll service until the order is confirmed in accordance with one of the following procedures:

(a) The telecommunications company has obtained the customer's written authorization to submit the order (letter of agency). The letter of agency must be a separate document (or easily separable document) containing only the authorizing language described in sub-paragraph (i) through (vii) of this section, having the sole purpose of authorizing a telecommunications carrier to initiate a preferred carrier change. The letter of agency must be signed and dated by the customer to the telephone line(s) requesting the preferred carrier change. The letter of agency shall not be combined on the same document with inducements of any kind; however, it may be combined with checks that contain only the required letter of agency language as prescribed in (i) through (vii), below, and the necessary information to make the check a negotiable instrument. The check may not contain any promotional language or material. It shall contain, in easily readable, bold-face type on the front of the check, a notice that the customer is authorizing a change in the customer=s preferred carrier by signing the check. Letter-of-agency language must be placed near the signature line on the back of the check. Any carrier designated in a letter of agency as a preferred carrier must be the carrier directly setting the rates for the customer. Letters of agency must not suggest or require that a customer take some action in order to retain the customer=s current telecommunications carrier. If any portion of a letter of agency is translated into another language, then all portions must be translated into that language; as well as any promotional materials, oral descriptions or instructions provided with the letter of agency. The letter of agency must confirm ~~which includes~~ the following information from the customer:

(i) The customer billing name, billing telephone number and billing address and each telephone number to be covered by the change order;

(ii) The decision to change; ~~and~~

(iii) The customer's understanding of the change fee;

(iv) That the customer designates [name of carrier] to act as the customer=s agent for the preferred carrier change; and

(v) That the customer understands that only one telecommunications carrier may be designated as the customer=s interstate carrier; that only one telecommunications carrier may be designated as the customer=s intraLATA preferred carrier; and that only one telecommunications carrier may be designated as the customer=s local exchange provider, for any one telephone number. The letter of agency must contain a separate statement regarding the customer=s choice for each preferred carrier, although a separate letter of agency for each choice is not necessary; and

(vi) Letters of agency may not suggest or require that a customer take some action in order to retain the current preferred carrier.

(b) The ~~new telecommunications company~~ submitting carrier has obtained the customer's authorization, as described in (a) of this subsection, electronically, by use of an automated, electronic telephone menu system. Such authorization must be placed from the telephone number(s) for which the preferred carrier is to be changed and must confirm the information required in paragraph (a)(i)-(vii) of this section. Telecommunications companies electing to confirm sales electronically shall establish one or more toll free telephone numbers exclusively for that purpose. Calls to the number(s) shall connect a customer to a voice response unit, or similar, that records the required information regarding the change, including automatically recording the originating automatic number identification (ANI).

(c) An appropriately qualified and independent third party operating in a location physically separate from the telemarketing representative has obtained the customer's oral authorization to submit the change order that confirms and includes appropriate verification data ~~in (a) of this subsection.~~ (e.g., the customer=s date of birth). The independent third party must not be owned, managed, controlled or directed by the carrier or the carrier=s marketing agent; and must not have any financial incentive to confirm preferred carrier change orders for the carrier or the carrier=s marketing agent. The content of the verification must include clear and conspicuous confirmation that the customer has authorized a preferred carrier change.

(2) Where a telecommunications carrier is selling more than one type of telecommunications service (e.g., local exchange, intraLATA/intrastate toll, interLATA/interstate toll and international toll), that carrier must obtain separate authorization, and separate verification, from the customer for each service sold, although the authorizations may be made within the same solicitation.

(3) The documentation regarding a customer=s authorization for a preferred carrier change must be retained by the submitting carrier, at a minimum, for two years to serve as verification of the customer's authorization to change his or her telecommunications company. The documentation will be made available to the customer and to the commission upon request. Documentation includes, but is not limited to, all entire third-party-verification conversations and, for written verifications, the entire verification document.

~~(2)~~ (4) Implementing order changes. An executing carrier may not verify the submission of a change in a customer=s selection of a provider received from a submitting carrier. The executing carrier must comply with a requested change promptly, without any unreasonable delay. An executing carrier is any telecommunications carrier that effects a request that a customer=s carrier be changed.
(a) This section does not prohibit any company from investigating and responding to any customer initiated inquiry or complaint.

~~(a) Telemarketing orders. Within three business days of any telemarketing order for a change, the new telecommunications company must send each new customer an information package by first class mail containing at least the following information concerning the requested change:~~
~~(i) The information is being sent to confirm a telemarketing order placed by the customer.~~
~~(ii) The name of the customer's current telecommunications company.~~
~~(iii) A description of any terms, conditions or charges that will be incurred.~~
~~(iv) The name of the newly requested telecommunications company.~~
~~(v) The name of the person ordering the change.~~
~~(vi) The name, address and telephone number of both the customer and the soliciting telecommunications company.~~
~~(vii) A postpaid postcard which the customer can use to deny, cancel or confirm a service order.~~
~~(viii) A clear statement that if the customer does not return the postcard, the customer's service will be switched fourteen days after the date the information package was mailed. If customers have canceled their orders during the waiting period, the new telecommunications company cannot submit the customer's order.~~
~~(ix) The name, address and telephone number of a contact point at the commission for consumer complaints.~~
~~(x) The requirements in (a)(vii) and (viii) of this subsection do not apply if authorization is obtained pursuant to subsection (1) of this section.~~

~~(b) The documentation of the order shall be retained by the new telecommunications company, at a minimum, for twelve months to serve as verification of the customer's authorization to change telecommunications~~

~~company. The documentation will be made available to the customer and to the commission upon request.~~

~~(3) Customer initiated orders. The new telecommunications company receiving the customer initiated request for a change of local exchange and/or intrastate toll shall keep an internal memorandum or record generated at the time of the request. Such internal record shall be maintained by the telecommunications company for a minimum of twelve months to serve as verification of the customer's authorization to change telecommunications company. The internal record will be made available to the customer and to the commission upon request. Within three business days of the order, the telecommunications company must send each new customer an information package by first class mail containing at least the following information concerning the request to change as defined in subsection (2)(a)(ii), (iii), (iv), (v) of this section.~~

(5) Preferred carrier freezes. A preferred carrier freeze prevents a change in a customer=s preferred carrier selection unless the customer gives the carrier from whom the freeze was requested express consent. Express consent means direct, written or oral direction by the customer. All local exchange companies must offer preferred carrier freezes. Such freezes must be offered on a nondiscriminatory basis to all customers; and, in offering or soliciting such freezes, clearly distinguish among telecommunications services subject to a freeze (e.g., local exchange, intraLATA/intrastate toll, interLATA/interstate toll, and international toll). The carrier offering the freeze must obtain separate authorization for each service for which a preferred carrier freeze is requested. Separate authorizations may be contained within a single document.

(a) All local exchange companies must notify all customers of the availability of a preferred carrier freeze no later than the customer=s first telephone bill, and once per year must notify all local exchange service customers of such availability on an individual customer basis (e.g., bill insert, bill message, or direct mailing).

(b) All carrier-provided solicitation and other materials regarding freezes must include an explanation, in clear and neutral language, of what a preferred carrier freeze is, and what services may be subject to a freeze; a description of the specific procedures to lift a preferred carrier freeze; an explanation that the customer will be unable to make a change in carrier selection unless he or she lifts the freeze; and an explanation of any charges incurred for implementing or lifting a preferred carrier freeze.

(c) No local exchange carrier may implement a preferred carrier freeze unless the customer=s request to impose a freeze has first been confirmed in accordance with the procedures outlined for confirming a change in preferred carrier, as described in 480-120-139(1) and (2).

(d) All local exchange carriers must offer customers, at a minimum, the following procedures for lifting a preferred carrier freeze:
(i) A customer=s written and signed authorization stating his or her intent to lift the freeze;
(ii) A customer=s oral authorization to lift the freeze. This option must include a mechanism that allows a submitting carrier to conduct a three-way conference call with the executing carrier and the customer in order to lift the freeze. When engaged in oral authorization to lift a freeze, the executing carrier must confirm appropriate verification data (e.g., the customer=s date of birth), and the customer=s intent to lift the freeze.

(e) A local exchange company may not change a customer=s preferred carrier if the customer has a freeze in place, unless the customer has lifted the freeze in accordance with this section.

~~(4)~~ (6) Remedies. In addition to any other penalties provided by law, ~~a telecommunications company initiating an unauthorized change order~~ a submitting carrier that requests a change in a customer=s carrier without proper verification as described in this rule shall receive no payment for service provided as a result of the unauthorized change and shall promptly refund any amounts collected as a result of the unauthorized change. The customer may be charged, after receipt of the refund, for such service at a rate no greater than what would have been charged by its authorized telecommunications company, and any such payment shall be remitted to the customer's authorized telecommunications company.

Arizona Corporation Commission
Qwest – SAM-1
Exhibits of Scott A. McIntyre
Page 12 of 12
April 11, 2002

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Creation Info

Tim Sweeney was the last to edit this document, on 03/19/2002.

1300 S. Evergreen Park Drive SW - Olympia, WA 98504-7250
Phone: 360-664-1160 (in state toll-free: 1-800-562-6150) FAX: 360-586-1150

RULES REGULATING THE CHANGING OF PRESUBSCRIPTION

RULE (4 CCR) 723-2-25. <u>CHANGING PROVIDER/CARRIER PRESUBSCRIPTION</u>.

723-2-25.1 DEFINITIONS.

723-2-25.1.1 <u>End-Use Customer or End-User</u> The ultimate consumer of a telecommunications service, or, a retail consumer of telecommunications services.

723-2-25.1.2 <u>Slamming</u>. Any change in an end-use customer's presubscription to a telecommunications service subject to the jurisdiction of the Commission which is made without appropriate consent of the customer.

723-2-25.1.3 <u>Toll reseller</u>. Any person who provides toll services to end-use customers by using the transmission facilities, including without limitation wire, cable, optical fiber, or satellite or terrestrial radio signals, of another person. A toll reseller may, but need not, possess its own switching facilities.

723-2-25.2 Verification of Orders for Service.

723-2-25.2.1 No customer-selected basic local exchange provider (CSBLEP) or customer-selected intrastate intraLATA or interLATA carrier (CSIIIXC) shall submit to the customer's previously selected basic local exchange provider (BLEP) a provider/carrier change order unless and until the CSBLEP or CSIIIXC has obtained confirmation from the customer in accordance with one of the following procedures listed below. This rule applies to service provider change requests initiated by the provider as well as requests initiated by the customer. Regardless of the method used for order verification, a separate verification must be obtained for each type of service (i.e., local exchange service, intraLATA or interLATA long distance service) and for each telephone line for which the customer seeks to change providers.

723-2-25.2.2 The CSBLEP/CSIIIXC has obtained the customer's written authorization pursuant to the requirements of Rule 25.3 below; or

723-2-25.2.3 The CSBLEP/CSIIIXC has obtained the customer's electronic authorization to change accounts or providers, placed from the telephone number(s) for which the CSBLEP/CSIIIXC is to be changed, and the authorization confirms the customer's billing name and address, the decision to change to the CSBLEP/CSIIIXC, and the customer's understanding of the BLEP change fee to confirm the authorization. CSBLEP/CSIIIXCs electing to confirm sales electronically shall establish one or more toll-free telephone numbers exclusively for that purpose. Calls to the number(s) will connect a customer to a voice response unit, or similar mechanism, that records the required information regarding the provider/carrier change, including automatically recording the originating number using Automatic Number Identification (ANI); or

723-2-25.2.4 An appropriately qualified and independent third party operating in a location physically separate from the telemarketing representative has obtained the customer's oral authorization to submit the provider/carrier change order that confirms and includes appropriate verification data (*e.g.*, the customer's date of birth or social security number); or

723-2-25.2.5 Within three business days of the customer's oral request for a provider/carrier change, the

CSBLEP/CSIIIXC must send each new customer an information package by first class mail. If the customer does not confirm the change order by postcard within fourteen days of the date the information package was mailed, the change order shall be considered cancelled. The information packet shall contain at least the following information concerning the requested change:

723-2-25.2.5.1 A statement that the information is being sent to confirm a telemarketing order placed by the customer within the previous week;

723-2-25.2.5.2 The name of the customer's current CSBLEP/CSIIIXC;

723-2-25.2.5.3 The name of the newly requested CSBLEP/CSIIIXC;

723-2-25.2.5.4 A description of any terms, conditions, or charges that will be incurred;

723-2-25.2.5.5 The name of the person ordering the change;

723-2-25.2.5.6 The name, address, and telephone number of both the customer and the soliciting CSBLEP/CSIIIXC;

723-2-25.2.5.7 A postpaid postcard which the customer can use to deny, cancel, or confirm a service order;

723-2-25.2.5.8 A clear statement that if the customer does not return the postcard, then the customer's carrier will not be switched; and

723-2-25.2.5.9 The name, address, and telephone number of a contact point at the Commission for consumer complaints.

723-2-25.3 Letter of Agency Form and Content.

723-2-25.3.1 A CSBLEP shall obtain any necessary written authorization from a customer for a CSBLEP/CSIIIXC change by using a letter of agency as specified in this Rule 25.3. Any letter of agency that does not conform with this Rule 25.3 is void.

723-2-25.3.2 The letter of agency shall be a separate or severable document (an easily separable document containing only the authorizing language described below) the sole purpose of which is to authorize a CSBLEP/CSIIIXC change. The letter of agency must be signed and dated by the customer of the telecommunications service requesting the change to the customer's selected CSBLEP/CSIIIXC.

723-2-25.3.3 The letter of agency shall not be combined with inducements of any kind on the same document. A document shall not be valid under paragraph 25.3.1 if it is presented to the customer for signature in connection with a sweepstakes or other game of chance.

723-2-25.3.4 Notwithstanding Rules 25.3.2 and 25.3.3 of this Rule, the letter of agency may be combined with checks that contain only the required letter of agency language prescribed in Rule 25.3.5 below and the necessary information to make the check a negotiable instrument. The letter of agency check shall not contain any promotional language or material. The letter of agency check shall contain, in easily readable, bold-face type on the front of the check, a notice that the consumer is authorizing a CSBLEP/CSIIIXC change by signing the check. The letter of agency language also shall be placed near the signature line on the back of the check.

723-2-25.3.5 At a minimum, the letter of agency must be printed in a sufficiently sized and readable type to be clearly legible to persons with normal and monochrome vision, and must contain clear and unambiguous language that confirms:

723-2-25.3.5.1 The customer's billing name and address and each telephone number to be covered by the CSBLEP/CSIIIXC change order;

723-2-25.3.5.2 The decision to change the presubscribed provider/carrier from the current BLEP/CSIIIXC to the prospective CSBLEP/CSIIIXC;

723-2-25.3.5.3 That the customer designates the new CSBLEP/CSIIIXC to act as the customer's agent for the respective customer-selected provider/carrier service change;

723-2-25.3.5.4 That the customer understands that currently only one CSBLEP/CSIIIXC for each jurisdictional service may be designated as the customer's CSBLEP/CSIIIXC for any one telephone number (e.g., there may be a CSBLEP/CSIIIXC for local service and a different CSBLEP/CSIIIXC for toll or other service). When, pursuant to future Commission order, the number or types of services an end-use customer can designate as a CSBLEP/CSIIIXC expands, the letter of agency must contain separate statements regarding each choice of service selection (i.e., CSBLEP/CSIIIXC for which the letter of agency is authorizing a designation). Any provider/carrier designated as a preferred CSBLEP/CSIIIXC must be the provider/carrier directly setting the rates for the customer. One provider/carrier can be a customer's interstate preferred interexchange carrier, preferred intrastate carrier, and a customer's CSBLEP/CSIIIXC for local service; and

723-2-25.3.5.5 That the customer understands that any CSBLEP/CSIIIXC selection the customer chooses may involve a charge to the customer for changing the customer's CSBLEP/CSIIIXC.

723-2-25.3.6 Letters of agency shall not suggest or require that a customer take some action in order to retain the customer's current CSBLEP/CSIIIXC.

723-2-25.3.7 If any portion of a letter of agency is translated into another language, then all portions of the letter of agency must be translated into that language.

723-2-25.3.8 If the customer is not an individual, a document, authorization, or request referenced in 3.1 above, shall be valid only if given by an authorized representative of the customer, who shall provide proof of such authority.

723-2-25.4 Freezing a Telecommunications Service Provider.

723-2-25.4.1 Each BLEP/CSIIIXC must offer customers, at no charge, the option to freeze their BLEP/CSIIIXC. As used herein, a freeze occurs when a customer designates its existing BLEP/CSIIIXC as a permanent choice which may not be changed absent further written authorization initiated by the customer.

723-2-25.4.2 BLEP/CSIIIXCs shall conduct an education program upon initiation of service to a customer which informs the customer of the option to freeze its choice of provider and the effects of freezing a BLEP/CSIIIXC on the customer's service choices.

723-2-25.4.3 Tariff Filing Requirement.

Each telecommunications service provider shall file a tariff subject to the Commission's approval, describing, consistent with 723-25.4.2, its customers' options as to freezing their CSBLEP/CSIIIXC. Toll resellers shall not be subject to this requirement to file a tariff.

723-2-25.5 Enforcement.

723-2-25.5.1 A provider/carrier that violates any provision contained in these rules is subject to enforcement and penalties as provided in Articles 1-7 and 15 of Title 40, Colorado Revised Statutes.

723-2-25.5.2 Upon notification from an end-user of a change to another telecommunications provider or carrier without authorization, the CSBLEP/CSIIIXC shall switch the end-user's CSBLEP/CSIIIXC that has been found to have been changed without end-user authorization in accordance with Rule 25.2 back to the CSBLEP/CSIIIXC (itself) at no charge to the end-user.

723-2-25.5.3 A telecommunications provider who initiates an unauthorized change in a customer's designated telecommunications provider, i.e., slamming, in violation of this section is liable:

723-2-25.5.3.1 To the customer, the customer's previously selected provider, or both, as determined by the Commission, for all intrastate long distance charges, interstate long distance charges, local exchange service charges, provider switching fees, the value of any premiums to which the customer would have been entitled, and other relevant charges incurred by the customer during the period of the unauthorized change; and

723-2-25.5.3.2 To the local exchange provider for the change fees for the unauthorized change and reinstating the customer to the original provider.

RULE (4 CCR) 723-2-26. [RESERVED FOR FUTURE USE]

RULE (4 CCR) 723-2-27. INTRALATA EQUAL ACCESS.

723-2-27.1 General Provisions.

723-2-27.1.1 All local exchange companies shall meet all applicable requirements to provide intraLATA equal access to all intraLATA interexchange carriers, and shall implement equal access coincident with commencement of the provision of interLATA interexchange services, but in no event later than February 8, 1999.

723-2-27.2 IntraLATA Equal Access Requirements. At least four months prior to implementation of equal access, all local exchange companies subject to these rules shall file a report with the Commission setting forth that company's proposed schedule of implementation of intraLATA equal access for each wire center served.

723-2-27.3 Customer Notice Requirement When Implementing IntraLATA Toll Equal Access. No later than 30 days prior to the implementation of intraLATA equal access, each local exchange carrier shall send a notice to each of its end use customers advising them that they can now select an intraLATA carrier of their choice. The notice must provide an explanation of the change in service capability, but contain no marketing information whatsoever. The notice shall be made through a customer bill insert or other means as approved by

54-8b-18. Definitions -- Unauthorized change of telecommunications provider -- Unauthorized charges -- Procedures for verification -- Penalties -- Authority of commission.

(1) For purposes of this section:

(a) "Agents" includes any person, firm, or corporation representing a telecommunications corporation for purposes of requesting a change in a subscriber's telecommunications provider, but does not include a local service provider when executing a request submitted by another service provider or its agents.

(b) "Freeze" means a directive from a subscriber to retain the provider of public telecommunications services selected by the subscriber until the subscriber provides authorization for a change to another provider of public telecommunications services through any means by which a freeze is implemented.

(c) "Small commercial subscriber" is a person or entity conducting a business, agriculture, or other enterprise in the state having less than five telecommunications lines.

(d) "Subscriber" means a corporation, person, or government, or a person acting legally on behalf of a corporation, person, or government who has purchased public telecommunications services from a telecommunications corporation.

(2) No telecommunications corporation or its agents shall make any change or authorize a different telecommunications corporation to make any change in the provider of any public telecommunications service to a subscriber unless it complies, at a minimum, with Subsections (2)(a) through (e). This Subsection (2) does not apply to a telecommunications corporation that effectuates a change in service provider pursuant to a change authorization submitted or requested by another telecommunications corporation.

(a) The telecommunications corporation or its agents shall, at a minimum, inform the subscriber of the nature, extent, and rates of the service being offered and any charges associated with the change.

(b) Notwithstanding Section **13-26-4**, changes in provider of telecommunication service accomplished through telephone solicitation shall comply with the Telephone Fraud Prevention Act, Sections **13-26-2**, **13-26-8**, **13-26-10**, and **13-26-11**.

(c) For sales of residential service or small commercial subscriber service, the telecommunications corporation or its agents shall confirm that the subscriber is aware of any charges that the subscriber must pay associated with the change and that the subscriber authorizes the change of provider. The subscriber's authorization to change the provider shall be confirmed by any one of the following methods:

(i) obtaining the subscriber's written authorization;

(ii) having the subscriber's oral authorization verified by an independent third party; or

(iii) any means provided by rule of the Federal Communications Commission or the commission.

(d) If the subscriber is not an individual, an authorization shall be valid only if given by an authorized representative of the subscriber.

(e) (i) The written authorization to change the provider shall be signed by the subscriber and shall contain a clear, conspicuous, and unequivocal request by the subscriber for a change of telecommunications provider.

(ii) A written authorization is not valid if it is presented to the subscriber for signature in connection with a sweepstakes, game of chance, or any other means prohibited by commission rule.

(iii) Nothing in this section shall be construed to prohibit any person from offering a premium, incentive, or a thing of value to another as consideration for authorizing a change of telecommunications service provider, provided that no element of chance or skill is associated with the offer of the premium, incentive, or thing of value or its receipt.

(3) The confirmation by a third-party verifier shall, at a minimum:

(a) confirm the subscriber's identity with information unique to the customer, unless the customer refuses to provide identifying information, then that fact shall be noted;

(b) confirm that the subscriber agrees to the requested change in telecommunications service providers; and

(c) confirm that the subscriber has the authority to select the provider as the provider of that service.

(4) A third-party verifier shall meet each of the following criteria:

(a) any criteria for third-party verifiers set by the Federal Communications Commission;

(b) not be directly or indirectly managed, controlled, directed, or owned wholly or in part:

(i) by the telecommunications corporation or its agents that seek to provide the telecommunications service or by any corporation, firm, or person who directly or indirectly manages, controls, directs, or owns more than 5% of the telecommunications corporation; or

(ii) by the marketing entity that seeks to market the telecommunications service or by any corporation, firm, or person who directly or indirectly manages, controls, directs, or owns more than 5% of the marketing entity;

(c) operate from facilities physically separated from:

(i) those of the telecommunications corporation or its agents that seek to provide the subscriber's telecommunications service; or

(ii) those of the marketing entity that seeks to market a telecommunications service to the subscriber; and

(d) not derive commissions or compensation based upon the number of change authorizations verified.

(5) A telecommunications corporation or its agents seeking to verify the change authorization shall connect the subscriber to the third-party verifier or arrange for the third-party verifier to call the subscriber to verify the change authorization.

(6) A third-party verifier that obtains the subscriber's oral verification regarding the change shall record that verification by obtaining appropriate verification data.

(7) (a) The record verifying a subscriber's change of provider shall be available to the subscriber upon request.

(b) Information obtained from the subscriber through verification may not be used for any other purpose.

(c) Any intentional unauthorized release of the information in Subsection (7)(b) is grounds for penalties or other action by the commission or remedies provided by law to the aggrieved subscriber against the telecommunications corporation, third-party verifier, their agents, or their employees who are responsible for the violation.

(8) The third-party verification shall occur in the same language as that in which the change was solicited.

(9) The verification requirements described in this section shall apply to all changes in the provider of any public telecommunications service.

(10) The commission may promulgate rules:

(a) necessary to implement this section;

(b) consistent with any rules promulgated by the Federal Communications Commission; and

(c) in a nondiscriminatory and competitively neutral manner.

(11) (a) Each subscriber may elect to require the telecommunications corporation providing the subscriber's local exchange service to implement a freeze until the subscriber provides authorization for a change to another provider of public telecommunications services.

(b) Once a subscriber has elected the freeze option under Subsection (11)(a), the telecommunications corporation providing the subscriber's local exchange service may not process a request to change the subscriber to another provider of telecommunications services without prior authorization directly from the subscriber.

(12) (a) Whenever the subscriber's provider of a telecommunications service changes, the new provider shall:

(i) retain a record of the verified change authorization consistent with requirements of the Federal Communications Commission or rules issued by the commission; and

(ii) be responsible for providing a conspicuous notice of the change within 30 days of the effective date of the change of service.

(b) At a minimum, the notice in Subsection (12)(a)(ii) shall identify the new provider, contain a general description of the service and price, and provide information necessary for the subscriber to have questions answered or to rescind the change.

(13) Any bill shall identify each telecommunications service provider of telecommunication service for which billing is rendered.

(14) (a) Any person or provider of telecommunications service inadvertently or knowingly designating or changing the subscriber's telecommunications service provider in violation of this section shall refund to the subscriber any amounts required by the rules of the Federal Communications Commission and the commission.

(b) The unauthorized provider in Subsection (14)(a) additionally shall:

(i) bear all costs of restoring the customer to the service of the subscriber's original service provider; and

(ii) pay to any other telecommunications provider any fees set by the commission for the designation or change.

(15) Proceedings for violations of this section may be commenced by request for agency action filed with the commission by a subscriber, a telecommunications corporation, the Division of Public Utilities, or by the commission on its own motion.

(16) Any telecommunications corporation, its agents, or a third-party verifier who

violates this section or rules adopted to implement this section shall be subject to the provisions of Sections **54-7-23** through **54-7-29**.

(17) The commission is granted authority to enforce provisions relating to an unauthorized telecommunication service provider change in interstate and intrastate telecommunication service involving telecommunications corporations operating in the state.

Enacted by Chapter 113, 1999 General Session
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Sections in this Chapter|Chapters in this Title|All Titles|Legislative Home Page

Last revised: Friday, November 30, 2001

Arizona Corporation Commission
Qwest – SAM-4
Exhibits of Scott A. McIntyre
Page 1 of 2
April 11, 2002

NATIONAL FRAUD INFORMATION CENTER

Slamming

Scenario: You notice that your phone bill is four times higher than usual and you don't recognize the name of the company on the bill.
Scam: Your service has been switched, but you never agreed to leave your original carrier.

- **"Slamming" is when your phone service is changed from your regular provider to another company without your knowledge or consent.**
- **While long-distance service is the most common target of slamming,** your local phone service may be slammed if there is local competition in your area.
- **To slam you, all a crook needs is your business name and phone number.** The fraudulent company then notifies your local phone company, which performs the switching, that you have agreed to the change.
- **Sometimes slammers create phony verification that customers agreed to switch.** One ploy is to pose as your regular local or long-distance phone company and ask if you are satisfied with your service, if you want to take advantage of a new discount plan, or if you'd like to consolidate your telephone bills. Your "yes" answer is

Arizona Corporation Commission
Qwest – SAM-4
Exhibits of Scott A. McIntyre
Page 2 of 2
April 11, 2002

tape-recorded and used as proof that you agreed.

- **If a caller claims to be from your telephone company, don't provide any information or agree to anything in writing.** Get the person's name and number, and then call your phone company to confirm that the caller and the purpose of the call are legitimate.

- **Contest entry forms, product coupons and other promotional offers are also used to slam businesses.** Read the fine print carefully to make sure you aren't unwittingly agreeing to switch your phone service.

- **Don't return calls to numbers on your pager or answering machine that you don't recognize.** You could be dialing a number that results in switching your phone service without realizing it.

- **Educate your employees about slamming** and designate specific personnel to handle all matters relating to your phone service.

- **The person responsible for paying your phone bill should know what services you have and who provides them.**

- **Check your phone bill carefully.** Often the first clue that you have been slammed is the fact that the rates are much higher than usual. If you notice a new company name, call the number listed on that portion of the bill to ask for an explanation.

- **If you've been slammed, notify your local phone company** and ask to be switched back to the original carrier with no "change fee." Also contact your original carrier to find out about your rights and how you can be reinstated in your previous calling plan.

- **Ask your local telephone company** about "freezing" your phone service to prevent it from being switched unless you confirm directly that you've agreed to change.

- **Report slamming to law enforcement authorities.**

If you need advice about a solicitation or you want to report a possible scam, call the NFIC hotline at **1-800-876-7060**. You can also ask questions or report fraud using our online forms.

Arizona Corporation Commission
Qwest – SAM-5
Exhibits of Scott A. McIntyre
Page 1 of 2
April 11, 2002

Slamming Tip Sheet

Slamming -- having your telephone company changed without your permission -- is on the rise. Most consumers and small businesses that are slammed do not realize it until they get their next telephone bill. **Hey, I don't remember switching to Fred's Long Distance Company?**

Slamming happens to many consumers and small businesses in many ways. It used to be limited to long distance service. But as competition expands to local toll and local service, slamming is expanding as well. Some consumers and small businesses have had their long distance and local toll service slammed at the same time!

By following these simple survival tips, you can protect yourself from slamming:

- If you get a telemarketing call for new telephone service, **be careful** how you answer. Make sure you know what you are agreeing to before you say, "yes."
- **Ask questions** before you agree to change your long distance or local toll company in response to a telemarketing call. Make sure you understand what you are agreeing to.
- Ask the caller to send you written material about the offer and an authorization form so you can **check out the details** and then make a decision.
- If you get an offer in the mail, make sure you **read all the material** before returning the authorization form. Many mail offers include incentives like bonus checks, free minutes, raffle entries and other contests. Before accepting an offer, make sure you understand the rates, terms and conditions of the service that comes with it.
- Slamming frequently occurs when a company calls and offers to consolidate all of your telephone services on one bill. Sounds good, but most consumers and small businesses already get one bill from their local telephone company that includes their local, local toll, and long distance charges.
- Periodically **check your long distance company** by dialing 1+700+555-4141 and

Arizona Corporation Commission
Qwest – SAM-5
Exhibits of Scott A. McIntyre
Page 2 of 2
April 11, 2002

your local toll company by dialing 1+your area code+700-4141. If you live in the 847 area code in the Chicago area, dial 1+312+700-4141 to check your local toll company. You will not be charged for these calls.

- Call your local telephone company and ask them not to change your long distance or local toll company unless they receive a written or verbal **authorization** from you. This protects you from unscrupulous switches.

- If you are slammed, **know your rights**. The easiest way to lodge a complaint and switch back to your preferred company is to call your local telephone company. In most cases, you will be able to get your service switched back at no charge and you will be entitled to be rebilled by the company that slammed you at the rates that your original carrier would have charged for the calls.

You can also lodge a complaint with the Federal Communications Commission or your state's public service commission

Here is where to call:

Federal Communications Commission 1-202-418-0960
Illinois Commerce Commission 1-800-524-0795
(in Chicago call 1-312-814-2887)
Indiana Utility Regulatory Commission 1-800-851-4268
Michigan Public Service Commission 1-800-292-9555
Ohio Public Utility Commission 1-800-686-7826
Wisconsin Public Service Commission 1-800-225-7729
For a full listing of all the state utility commissions, click here.

For more information....

NCL/LOUIS HARRIS AND ASSOCIATES SURVEY ON SLAMMING

ORDER SLAMMING AND CRAMMING SURVIVAL GUIDE

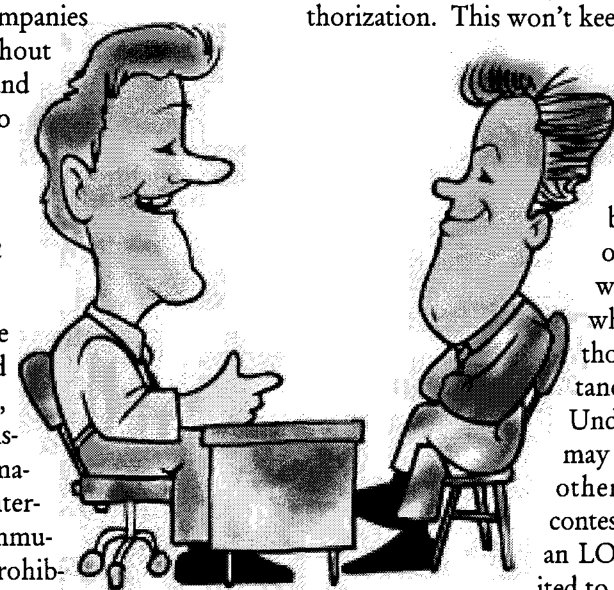
Complain to the National Fraud Information Center

NCL'S SLAMMING PRESS RELEASE

The National Consumers League, founded in 1899, is America's pioneer consumer

ıat is Slamming?

ng" is any practice that changes your local distance telephone company without your It is unfair competition that robs /our right to choose companies 10st often happens without owledge. It is wrong, and e things that you can do



g distance ıing *happening in Wyoming?*

Yes, and instances of long distance slamming have about doubled since 1994. Right now, however, the issue of slamming by long distance telephone companies is primarily federal because it involves interstate carriers. The Federal Communications Commission (FCC) prohibits slamming by long distance companies, and it is the appropriate agency to assist you with long distance slamming problems. Since most slams now concern interstate long distance telephone service, the FCC should be notified because it has the authority to act if regulatory action is needed. Although the majority of slams involve interstate telephone companies over which the Wyoming Public Service (PSC) does not have regulatory authority, the PSC has experienced complaint specialists who can still help you with information and tips on how to successfully resolve existing disputes if you have been slammed.

Is local slamming *happening in Wyoming?* No, not yet. But when the option of choosing among local telephone companies becomes available in Wyoming in the near future, along with it will come the possibility of local company slamming. The PSC is investigating how best to address this issue as local service competition develops in Wyoming.

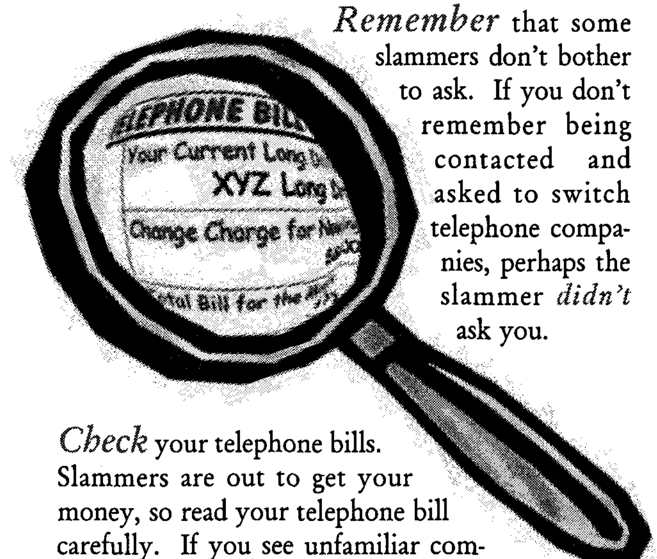
You have the right to choose.
You have the right to use any long distance company you choose, to change companies whenever you wish, and to have your choice respected. Nobody can legitimately alter your choice without your authorization. This won't keep some companies from trying to slam you. To make slamming more difficult, the FCC requires that any change of long distance carrier be done through a Letter of Agency (LOA) — a written document in which you specifically authorize a change of long distance telephone company. Under FCC rules, an LOA may not be sent to you with other information such as contests or prizes. To be valid, an LOA must be strictly limited to authorizing a change of long distance companies and must be clearly identified as doing this.

Some advice
on avoiding and detecting slams.

If you receive a telephone call about switching long distance companies, and if you are not interested, tell the caller with a clear and stern "NO" that you are not interested in getting their service. It doesn't end here, however. Callers will often also ask you to verify your address and telephone number. If you respond with a "yes", this is sometimes re-recorded by them as an authorization by you to change your long distance telephone companies even though such "manufactured" tape recordings are not effective authorizations from you to change companies. Information helps in tracking slammers. So, with all telephone calls regarding changes in long distance or local carriers, please write down the names and telephone numbers of the persons with whom you spoke, and the dates and times of the calls.

If you receive letters or promotions in the mail which seem to involve switching long distance or local telephone companies, do not sign anything without reading it carefully to understand the terms. Read the fine print carefully because that's where the "slam" may be hidden. Some promotions can be very misleading.

If you receive a card or letter in the mail which "verifies" or otherwise indicates that you have switched to another company, and you didn't authorize the change, notify your local telephone company at once to confirm whether or not you are still receiving service from the company of *your* choice. If you are not, tell the new company immediately that you did not authorize the change.



Remember that some slammers don't bother to ask. If you don't remember being contacted and asked to switch telephone companies, perhaps the slammer *didn't* ask you.

Check your telephone bills. Slammers are out to get your money, so read your telephone bill carefully. If you see unfamiliar company names or unusual charges ("change charges" and the like are favorites) on your telephone bill, call your local telephone company and ask them to assist you with an explanation. If you did not authorize a change, you are not responsible for the "change charge."

ike Back at Slamming!

› do first: If you have been slammed,

your local telephone company that you did not est a change to the "new" local or long distance pany;

them that you want to be reconnected to your er of choice;

st that you want all switching fees (including nge charges") removed from your bill;

your local telephone charges but **don't pay** the distance charges that are in dispute.

who to call next:

A. **Call** your preferred local or long distance company, report that you were switched without your permission, and ask to be reconnected *(there should be no charge for this).*

B. **Call** the company that slammed you and tell them that you will only pay the charges which your regular phone company would have imposed for the calls you made. When you make these contacts, be sure to record the number you called, name of the person to whom you spoke and the time and date of your call. **Remember,** it is your responsibility to call the FCC and notify them if you have been slammed and are having trouble working things out.

If you still need help. You can get additional help at no charge by calling the FCC's Consumer Protection Branch at 1-888-Call FCC (1-888-225-5322) or the Wyoming PSC at 1-307-777-7427.

Filing a Complaint

When should I file a complaint? If you cannot resolve your long distance company problem you should file a complaint with the FCC. If the slamming is a local telephone service problem, please file your complaint with the Wyoming PSC.

What to include: No special complaint forms are required for writing to either the FCC or the PSC. All you need to do is prepare a letter in your own words, include the following:

- Your name and address.
- Your contact telephone number.
- The telephone number that was slammed.
- The names of your local and long distance companies of choice.
- The name of the local or long distance company to which you were slammed.
- The names and telephone numbers of telephone company employees (or others) with whom you spoke in an effort to resolve your dispute and the dates and times of the calls.
- A copy of your bill showing the charges which you dispute.
- Copies of other documents such as "contest entry" forms and "checks" from the local or long distance "slammer."
- Copies of any LOA you may have signed, if available.
- Any other information which you think would help in resolving your complaint.

Where Send to It:

Federal Communications Commission
FCC National Call Center, Common Carrier Bureau
1-888-CALL FCC (1-888-225-5322)
Enforcement Division, MSC 1600A2
Consumer Protection Branch
TTY: 1-888-TELL FCC (1-888-835-5322)
2025 M. Street, N.W. • Washington, D.C. 20554
http://www.fcc.gov

Wyoming Public Service Commission
1-307-777-7427 (voice) • 1-307-777-7427 (TTY)
Consumer Complaint Section,
Hansen Building, Suite 300, 2515 Warren Ave.
Cheyenne, WY 82002
http://psc.state.wy.us

Let Us Help You! The PSC has a staff of trained and experienced utility complaint personnel to assist you with slamming problems. If the problem persists, please call us and allow us to help.

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Telephone Slamming

You don't have to be a Victim!

Arizona Corporation Commission
Qwest – SAM-6
Exhibits of Scott A. McIntyre
Page 3 of 17
April 11, 2002

Slamming

What you should know about protecting your telephone service

State of Nevada
Public Utilities Commission

Carson City, Nevada
(775) 687-6000

Division of Consumer
Complaint Resolution

Las Vegas, Nevada
(702) 486-2600

This page is best viewed at 800 x 600 resolution

WHAT IS SLAMMING?

Slamming is the term used when your local or long distance carrier is illegally changed without your consent.

HOW CAN THIS HAPPEN?

There are a number of ways unethical sales people can cause your phone service to

Arizona Corporation Commission
Qwest – SAM-6
Exhibits of Scott A. McIntyre
Page 4 of 17
April 11, 2002

be switched without your knowledge. The Federal Communications Commission allows companies to use telemarketing techniques to solicit your business. Telemarketers can cause your phone service to be switched by getting you to say "yes" during a telemarketing call. Also, you can inadvertently agree to switch your carrier by signing a card to enter a sweepstakes. In some circumstances, failure to return a postage-paid card within a certain number of days will trigger an unauthorized change. Sometimes a family member or office associate unknowingly authorizes the change.

How Do I Know I've Been Slammed?

Usually you find out your carrier has been switched when you look at the long distance portion of your phone bill and realize your normal carrier has been replaced by another. The new carrier may charge higher rates and you could be facing a higher bill.

What Can I Do To

Arizona Corporation Commission
Qwest – SAM-6
Exhibits of Scott A. McIntyre
Page 5 of 17
April 11, 2002

PREVENT SLAMMING?

Read your phone bill carefully each month. Make sure your local and long distance carriers are the ones you have chosen. Be familiar with the various charges and services. Also, you can call 1-700-555-4141 and a recording will tell you which long distance carrier is connected to your line.

If you are slammed, call your local phone company and request Primary Interexchange Carrier (PIC) protection on your phone line(s). A PIC freeze prohibits any change in long distance carriers without your express authorization.

Take preventive steps by educating your family and office associates. Only one person should have the authority to change your home or business phone company. Make sure everyone knows what to do if they receive calls regarding telephone service.

THE PUCN WILL HELP

The Public Utilities Commission of Nevada's

Division of Consumer Complaint Resolution is here to help. In addition to tracking which companies are using misleading or fraudulent tactics, we can work with your long distance and local carriers to return you to your carrier of choice without any charge. We will work to obtain any refunds you are owed due to higher charges.

Call us. We have offices in Carson City (775) 687-6000; and Las Vegas (702) 486-2600.

Do Any Consumer Safeguards Exist?

Both the PUCN and FCC have rules that carriers should follow when soliciting a customer to switch phone companies. The rules say the customer is entitled to receive confirmation of his requested switch in writing, by calling an 800 verification number and/or by having an independent third party verify the change. However, these consumer safeguards are increasingly being violated as carriers compete for new customers in the competitive telecommunications markets.

Arizona Corporation Commission
Qwest – SAM-6
Exhibits of Scott A. McIntyre
Page 7 of 17
April 11, 2002

WHAT IS CRAMMING?

Some companies also try to bill you for other calling services which you did not request. This practice is known as "cramming." The best defense is to listen carefully to sales pitches and closely review monthly bills. Whenever filling out sweepstakes entries, read the fine print.

WHAT ELSE CAN I DO?

You need to be a savvy phone customer. Ask questions. Never allow your service to be changed unless you fully understand the new rates and services you will be receiving. Sometimes there is a charge to switch phone companies. You need to know the amount of the charge and whether you or the new carrier will pay it.

Do not give out your credit card numbers, Social Security number, or other personal information over the phone to an unknown caller. Also, protect your Personal Identification Number (PIN) or any other personal information from an unknown caller.

You can also instruct a telemarketer to be put on the telemarketer's "do not call" list.

FINES / PENALTIES

Phone companies that break the rules and engage in illegal switching are subject to fines up to $100,000 per offense by the Federal Communications Commission. The FCC's toll free number is 1-888-225-5322.

They also can be prohibited from doing any business within Nevada. *If you've been slammed, we need to know.*

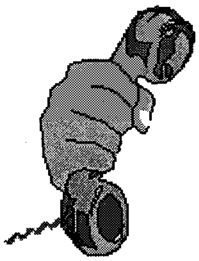
Arizona Corporation Commission
Qwest – SAM-6
Exhibits of Scott A. McIntyre
Page 9 of 17
April 11, 2002

Consumer Corner

What You Need To Know

About Telephone Slamming

As of July 1, 1998, state law makes slamming illegal in Georgia. Slamming happens when a local or long distance telephone company switches your service provider without your knowledge or consent. Previously limited to long distance service, slamming is on the rise as competition expands to local service and local toll calling markets. The Georgia Public Service Commission may penalize a phone company up to $15,000 for each violation. Additionally, a penalty of $10,000 may be assessed for each day on which said violation(s) continues.



How To Prevent Slamming

- Never sign anything without reading it.

- Be wary of telemarketing calls. If you receive a phone call about long distance or local phone service, be sure to tell the caller that you only want to receive information or that you are not interested in receiving the company's service.
- Call your local service provider and request a "PIC" freeze on your account to minimize unauthorized changes.
- Be sure others in your home understand who is authorized to change phone service.
- Read your phone bill carefully each month and report unfamiliar charges to your local telephone company.

What to watch for?

Be wary of sales pitches. Telemarketers may tempt you to sign up for a contest promising big prizes. Your signature may be represented as an agreement to switch telephone carriers. Slammers also may promise children, housekeepers and other persons who answer your phone lower rates and better service if they switch. Sometimes service is changed without any customer contact.

How Does Slamming Occur?

There are many ways you may be unknowingly switched, including:

- Signing up to receive coupons for products or to enter sweepstakes without realizing that in the fine print, there is an agreement to switch carriers.

- Receiving calls from companies pretending to be your current carrier or from organizations conducting surveys. You may be asked questions that usually require a "yes" answer. These answers are taped and used later as proof that you authorized the switch.

- Asking for written information in response to a telephone solicitation. Sometimes if you do not specifically say that all you want is information, you are slammed.

- Failing to respond to negative option notices which may be considered junk mail. These notices serve as authorization to switch your service if they are not returned.

If You Have Been Slammed:

- Call 1-700-555-4141 (toll free) to verify your long distance provider or call 1-(your area code)-700-4141 to verify your local toll provider.
- Tell your local phone company that you did not request a change in your long distance service. Ask the company to reconnect you to your previous carrier and have unauthorized charges removed from your bill.
- Call the company listed on your telephone bill as the service provider. Inform the company that caused the slam that you did not request its service, that you want it canceled immediately and that you will only pay the charge your preferred carrier would have imposed. If you have actually paid any charges billed by the carrier, inform the carrier that you are entitled to a refund unless the carrier can provide proof of your authorization for the carrier change, and you want all switching charges removed from your bill.
- Call your preferred long distance carrier and ask to be reconnected with no "change charges." Contact the Georgia Public Service Commission, if the issue is not resolved to your satisfaction.

Arizona Corporation Commission
Qwest – SAM-6
Exhibits of Scott A. McIntyre
Page 12 of 17
April 11, 2002

Georgia Public Service Commission
244 Washington Street, SW
Atlanta, GA 30334
(404) 656-4501
1-800-282-5813
Fax: (404) 656-2341
Email: gapsc@psc.state.ga.us

Last Updated: June 15, 2000

HOW DID I END UP WITH *THIS* TELEPHONE COMPANY?

What to do when your telephone service is slammed

WHAT IS ASLAMMING@?

ASlamming@describes the practice of changing a consumer=s local or long distance company without the consumer=s knowledge or consent. The Federal Communications Commission (FCC) has rules that require a consumer=s approval before a long distance carrier can be changed. Idaho is one of several states that have laws prohibiting slamming. Unfortunately, some telephone companies use deceptive and misleading telemarketing techniques designed to trick people into giving authorization to switch telephone companies.

WHAT ROLE DOES TELEMARKETING PLAY IN SLAMMING?

Deceptive telemarketing is the cause of many slamming complaints. Telemarketers who are out to switch your telephone company often represent themselves as well-known, established local or long distance companies who are offering discounts. For example, a long distance company may claim to be calling on behalf of your local phone company. Some consumers are slammed even though they tell the telemarketer they are not interested in switching companies.

HOW DO I AVOID TELEMARKETING CALLS?

! Write to the following address and ask that your telephone number be removed from all telephone solicitation lists:

Telephone Preference Service
c/o Direct Marketing Association
P. O. Box 9014
Farmingdale, NY 11735-9014

This step won=t stop all calls, but it will reduce the number of calls you receive.

! Ask your local phone company to remove your nameC at no chargeC from lists the local phone company leases to other firms. Customers with non-listed or non-published numbers are already removed from these lists.

HOW DO I AVOID BEING SLAMMED?

! **Be firm with telemarketers.** If you receive a phone call about changing telephone service and you are not interested in switching your service, tell the caller that you are not interested in receiving the services of the company the telemarketer is representing. You also have the right to ask that the telemarketer remove your number from its solicitation lists.

! **Read carefully materials you receive in the mail.** If a company sends you a letter or postcard Averifying@ that you switched services, immediately notify that company that you did not authorize the change and you did not ask to be switched. Then call your local telephone company to confirm that you are still with your preferred telephone company.

! **Read the fine print in any sweepstakes or drawing entry forms before filling them out.** It may indicate that by signing the form, authorization is being given to switch long distance companies. In Idaho, this practice is illegal and should be reported to the proper agency, the Office of the Attorney General.

! **Ask your local phone company for a Acarrier freeze@ or APIC freeze@.** Placing a PIC freeze on your account means that your preferred telephone company cannot be changed without your direct authorization. Another local or long distance company cannot change your account on your behalf by simply sending an electronic request to the local telephone company. A PIC freeze is a good preventative measure, but it is not an absolute guarantee that you cannot be slammed.

WHY IS A PIC FREEZE NOT A GUARANTEE THAT MY SERVICE WON=T BE SWITCHED?

For instance, if you inform your local phone company that your preferred long distance company is XYZ Phone Company and you want a PIC freeze to XYZ, it is still possible for you to be switched by a company that buys network time from XYZ and then resells that time to consumers. These companies are called switchless resellers. The local phone company=s computer will not know your service is switched because your calls are still going over the XYZ network. Your telephone bill may state that your carrier is XYZ but a reseller that buys time on the XYZ network is billing you. PIC freezes are only effective if a company using another network tries to switch you.

HOW DO I KNOW IF I HAVE BEEN SLAMMED?

! **Carefully examine your phone bill each month.** You may be slammed if you see the name of an unfamiliar company on your bill, or your rates are higher than what your preferred telephone company charges. Question any charges you don=t understand.

Be suspicious of companies whose names you don=t recognize. Sometimes customers find out they were slammed when their preferred telephone company calls them to ask why they switched, or they try to use their calling card and it doesn=t work.

! **Call toll-free 1-700-555-4141 from your phone at any time and you will hear a recording that states the name of the underlying long distance company assigned to that line.** If the long distance company is not the one you selected, follow the steps below. For the same reason that a PIC freeze may not guarantee that your service won=t be slammed, this call may not reveal slamming done by a switchless reseller.

WHAT ARE MY RIGHTS IF I GET SLAMMED?

! You have the right to return to your preferred telephone company without paying any type of charge for switching.

! You have the right to dispute any charges resulting from an unauthorized change in your telephone company. You may challenge a bill even if you have already paid it.

WHAT DO I NEED TO DO IF I HAVE BEEN SLAMMED?

You will need to make several phone calls. Do not write messages on telephone company bills or send a letter with your bill payment. These messages or letters will most likely be overlooked.

! **Call your local phone company.** Give them the name of the company that slammed you and ask to be reconnected to your preferred telephone company as soon as possible. Ask the local telephone company to remove any Achange charges@from your telephone bill. (Local phone companies control the local and long distance switches, and typically charge about $5.00 to switch a customer to another company.) Ask for a PIC freeze if you have not already done so. Sometimes your local phone company will tell you their records show you have not been switched. This will indicate to you that the company that slammed you uses the same network as your preferred telephone company. Again, this point illustrates why PIC freezes do not always work.

! **Call the company that slammed you.** This important step is often easier said than done. Sometimes a billing clearinghouse does the billing for the company that actually did the slamming. The company that did the slamming is not always readily identified by the billing company. Start by calling the number provided on your bill for the billing company. The billing company should be able to tell you on whose behalf it bills and can give you the telephone number for that company. If you look carefully on the page(s) provided by the billing company, you can sometimes detect the name of the company that slammed you, but typically the telephone number listed on the bill, if one is provided, is that of the billing company, not the actual telephone company.

Once you reach the telephone company directly, ask what authorization they had to switch you. The FCC requires companies to obtain verification of consumer authorization in one of three ways: (1) written authorization; (2) verification by an independent third party; or (3) electronic authorization that requires a consumer to call a toll-free number from the phone on which service will be changed. Ask the company for proof that it verified the change request.

If the company has no valid verification, ask it to remove the disputed charges or, alternatively, re-rate your charges to match those of your preferred telephone company. If you have already paid, ask for a credit or refund.

Finally, ask the company to cancel and close your account. This request is especially important if the company charges a monthly fee, which it will continue to bill until your account is cancelled.

If your long distance service was slammed, call your preferred long distance company. Explain that you were slammed. Ask the company to reinstate your account as quickly as possible. Make sure the company reinstates your discount calling plan; otherwise, you will be charged regular retail rates, which are typically much higher than rates available under discount calling plans. Ask the company how long it will take to switch you back. Call toll-free 1-700-555-4141 from your phone to verify that you are switched back to your preferred company.

! **Check your telephone bill.** Check your bill each month to make sure your preferred local or long distance company is carrying your calls. Watch for credits you have been promised. It can take up to two billing cycles for the credits to appear on your telephone bill. If you do not see the credits after two billing cycles (approximately two months), call the company again.

! **Contact you local telephone company.** Let your local phone company know if you disputed charges with the company that did the slamming and advise them of any promised credit adjustments. Your local phone company should note your account that you disputed the charges and remove the disputed charges from your phone bill.

IF I HAVE BEEN SLAMMED, SHOULD I REPORT IT TO SOMEONE?

Yes. Several federal and state agencies have a role.

! The Federal Communications Commission (FCC) has policies and rules that prohibit slamming. The FCC enforces these policies and rules by conducting inquiries into individual complaints and patterns of slamming practices. It has the authority to fine companies that aren=t playing by the rules. The FCC won=t know about the Abad players@ unless consumers report them. To file a complaint with the FCC, write: Federal Communications Commission, Common Carrier Bureau, Consumer

Protection Branch, The Portals, Room 5-B724, 445 12th Street, N.W., Washington, D.C. 20554. Or, call toll-free: 1-888-225-5322.

! The Federal Trade Commission (FTC) has policies and rules to protect consumers from deceptive and abusive telemarketing practices used in slamming. The FTC does not resolve individual consumer disputes, but complaints, comments, or inquiries may help the FTC spot a pattern of law violations requiring law enforcement action. Complaints filed with the FTC also help the FTC recognize and tell people about larger trends affecting consumers. To file a complaint with the FTC, write: Federal Trade Commission, CRC-240, Washington, D.C. 20580-0001. You may file a complaint electronically on the FTC=s website at http://www.ftc.gov. Or, call: 1-877-382-4357.

! The Idaho Public Utilities Commission regulates public utilities and provides information and dispute resolution services to consumers. To file a complaint with the Idaho PUC, write: Idaho PUC, P.O. Box 83720, Boise, ID 83720-0074. You may file a complaint electronically on the IPUC=s website at http://www.puc.state.id.us. Or, call toll free: 1-800-432-0369. Consumers located in the Treasure Valley calling area call: 334-0369.

! The Office of the Attorney General enforces consumer protection laws and can assist consumers with complaints. To file a complaint with the Attorney General, write: Office of the Attorney General, Consumer Protection Unit, P.O. Box 83720, Boise, ID 83720-0010. Or call toll-free: 1-800-432-3545.

i:consum/manual/Slamming.doc

Qwest ride the light

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5090 N. 40th St., Rm. 325
Phoenix, Arizona 85018

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PROTECT YOUR PHONE SERVICE FROM UNWANTED CHANGES. QWEST MAKES IT EASY.

Qwest preferred

We're committed to providing our Qwest Preferred customers with the best service possible. And now, we'd like to offer you the peace of mind of knowing that your phone service is protected.

Communication is an important part of your everyday activities. That's why you may want to protect your phone services from slamming (switching of your phone service provider without your permission). Get protection today, from Qwest. Now you can protect your local (dial tone), local long distance, and long distance service and prevent any company from changing your service provider(s) by placing a freeze on any or all of these services – at no charge. It's quick and easy to get this FREE protection for your telephone service(s).

Contact Qwest at 1.800.339.0188 Customer service hours are from 7 a.m. to 7 p.m.

A freeze does not prohibit you from making changes to your service(s)/provider(s) at any time, but you must contact us directly. You may remove a freeze at no charge by contacting Qwest directly with a verbal, written or electronically signed authorization. If you have any questions or need additional information, please contact us at the toll-free number listed at the top of your Qwest telephone bill.

Call today
1.800.339.0188
qwest.com

Qwest. ride the light

Broadband ***Internet*** ***Voice*** ***Wireless***

Once a freeze is effective, authorization given to others, even in writing or verified by a third party, will not be enough to change the provider of that service. Local Service Provider Freeze may not be available in all states.

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Letter Sent to Customer

This Letter is sent from Consulting Plus to the customer who has not removed the Local Service Freeze with the other CLEC.

January 15, 2002

Mr. John Smith
Smith's Auto Painting
123 Main Street
Omaha, NE 68114

Dear Mr. Smith:

You recently chose Qwest to provide your local phone service. However, your current Local Service Provider has a freeze on your account, preventing Qwest from processing your order for service. In order for Qwest to process your request, we need you to contact your current Local Service Provider and ask them to remove the freeze from your account.

We will check within a few days to verify that the freeze has been removed. As soon as the freeze has been removed, we will process your order immediately. If you have any questions, please contact us at the following number for:

Business	1-800-603-6000
Residential	1-800-244-1111

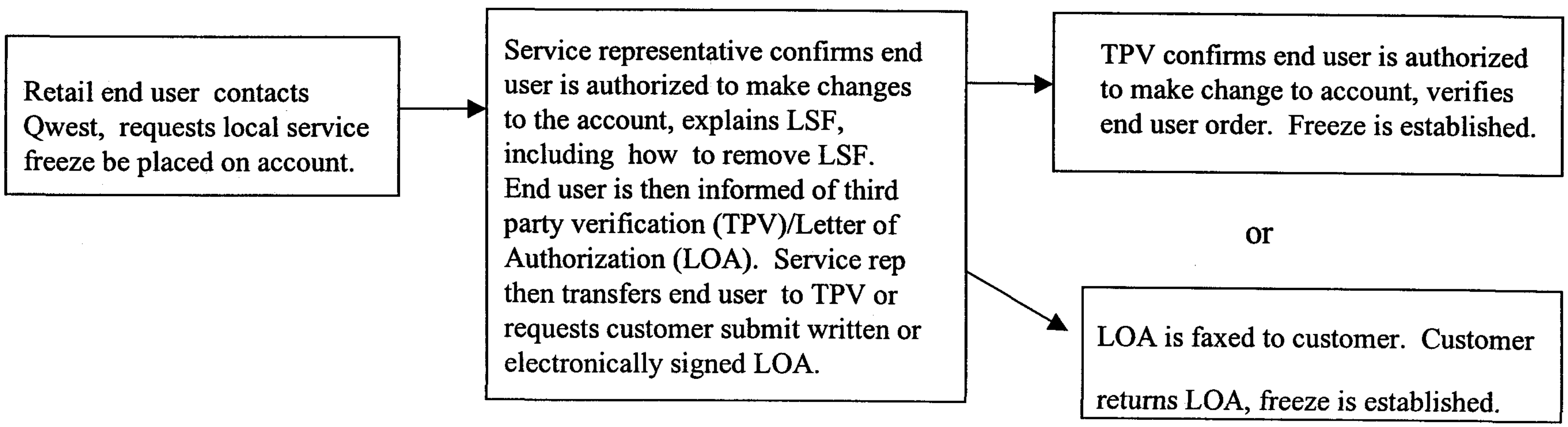
Thank you for choosing Qwest. We look forward to offering you products and services that met your unique communication needs.

Sincerely,

Your Qwest Customer Service Representative.

Letter of Authorization

PROCESS TO ESTABLISH A LOCAL SERVICE FREEZE



PROCESS TO REMOVE A LOCAL SERVICE FREEZE

Qwest retail end user contacts Qwest, requests freeze be removed. → Service representative issues order to remove freeze. → Freeze removed within one day.

- OR -

Qwest retail end user contacts new CLEC, informs CLEC that LSF exists on account. → CLEC and retail end user conference with Qwest, end user requests LSF removal. → Qwest service representative issues order to remove freeze. Freeze removed within one day.

Main Acct #: ____________

McLeodUSA

Lo

Preferred Carrier Selection Freeze

A preferred carrier freeze will prevent a change in your selected carrier for each of the services listed below. You will be unable to make a change in carrier selection while the freeze is in effect. The freeze can be lifted by providing us with written authorization, or by calling us. This procedure is necessary in addition to any other verification procedures needed for a change in preferred carrier selection. McLeodUSA does not charge for establishing or lifting a preferred carrier freeze; but if your local exchange carrier is not McLeodUSA, that carrier may impose such a charge.

I would like to freeze my preferred carrier selections for the following services:

☐ **Local Exchange Service**
(Local service only)

☐ **International Service**
(Calling outside of the United States)

☐ **IntraLATA Service**
(Local Access Transport Area)
(Local long distance calls)

☐ **InterLATA Service**
(Local Access Transport Area)
(Calling outside your local long distance area)

Customer Signature and Title

Billing Name

Print Customer Name

Current LEC Billing Address

Date

Billing Address (2)

City, State, Zip

Telephone Number(s):

2.17 Service Provider Options (N)

2.17.1 No Primary Interexchange Carrier (PIC) Option

Customers have the option of not selecting a toll provider as primary carrier for intraLATA and/or interLATA toll traffic, thus requiring the customer to use an access code to obtain toll providers' services (i.e., 1010-XXX).

2.17.2 Two PIC Option

Customers will be able to select one toll provider for intraLATA toll calls and, if so desired, the same or another toll provider for interLATA toll calls.

2.17.3 Preferred Carrier Freeze (PCF)

The Company offers a free service called Preferred Carrier Freeze. This service is available to all Customers. PCF allows Customers to designate their local long distance (intraLATA) provider, long distance (interLATA) provider, and a local exchange service provider as permanent choices which may not be changed absent further authorization from the Customer. The Company will send a letter to each Customer upon initiation or transfer of service, which informs the Customer of the option to freeze his/her intraLATA, interLATA and local service provider choice(s). At the time a Customer contacts the Company to establish a freeze, a representative will advise him/her on how to facilitate a change of provider(s) on a frozen account.

2.17.4 Carrier Change Charge

After the initial 30-day period, or at any time after an initial carrier selection has been made, any carrier selection or change is subject to a Non-Recurring Charge of $5.00 per change, per line. (N)

BEFORE THE ARIZONA CORPORATION COMMISSION

WILLIAM A. MUNDELL
CHAIRMAN
JIM IRVIN
COMMISSIONER
MARC SPITZER
COMMISSIONER

IN THE MATTER OF QWEST CORPORATION 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

STATE OF WASHINGTON COUNTY OF KING	))))	AFFIDAVIT OF SCOTT A. MCINTYRE

Scott A. McIntyre, of lawful age being first duly sworn, deposes and states:

1. My name is Scott A. McIntyre. I am Director – Product & Market Issues for Qwest Corporation in Seattle, Washington. I have caused to be filed written testimony in support of Qwest Corporation in Docket No. T-01051B-02-0073.

2. I hereby swear and affirm that my answers contained in the attached testimony to the questions therein propounded are true and correct to the best of my knowledge and belief.

Further affiant sayeth not.

Scott A. McIntyre

SUBSCRIBED AND SWORN to before me this 10th day of April, 2002.

LORI L. WHITE NOTARY PUBLIC COMMISSION EXPIRES 7-10-03 STATE OF WASHINGTON

Lori L. White
Notary Public residing at
City, State Seattle, Washington

My Commission Expires: 7/10/03