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BEFORE THE ARIZONA CORPORATION COMMISSION

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CHAIRMAN
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COMMISSIONER

JUN 18 2002

ARIZONA CORPORATION COMMISSION

IN THE MATTER OF RULES TO ADDRESS
SLAMMING AND OTHER DECEPTIVE
PRACTICES

Docket No. RT-00000J-99-0034

NOTICE OF ERRATA

Please take notice that the Arizona Wireless Carriers Group hereby files this Notice of Errata. In the Comments filed June 7, 2002 in the above-referenced docket, page 3 may have been inadvertently left out of some filing copies. That page is attached to this notice.

RESPECTFULLY SUBMITTED June 18, 2002.

ROSHKA HEYMAN & DEWULF, PLC

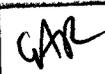
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Arizona Corporation Commission

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JUN 18 2002

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1 unauthorized charges, “cramming,” and not the unauthorized change of a customer’s selection of a
2 service provider, “slamming,” which the proposed rules address in Article 19. Given that Article
3 20 of the proposed rules does not make use of the term “authorized carrier,” the Commission
4 should delete this term from the definition section in this Article.

5 **B. R14-2-2001(F) – Definition of Unauthorized Charge**

6 Proposed R14-2-2001(F) states that the definition of an “unauthorized charge” does not
7 include “one-time pay-per-use charges or taxes and other surcharges that have been authorized by
8 law to be passed through to the Customer.” Although the AZ Wireless Carriers Group generally
9 supports this exemption, the Commission must not apply the phrase “that have been authorized by
10 law to be passed through to the Customer” to wireless carriers because the Commission does not
11 have authority to regulate wireless carrier rates and thus to determine whether a particular charge is
12 “authorized by law to be passed through” to customers.

13 States are preempted from regulating the rates charged by wireless carriers. This includes
14 the manner in which wireless carriers recover their contributions to various state programs.
15 47 U.S.C. § 332(c)(3)(A) provides, in pertinent part, as follows:

16 Notwithstanding sections 152(b) and 221(b) of this title, *no state or local*
17 *government shall have any authority to regulate the entry of or the rates*
18 *charged by any commercial mobile service or any private mobile service,*
19 *except that this paragraph shall not prohibit a state from regulating the*
other terms and conditions of commercial mobile services. [emphasis
added]

20 Under this broad mandate, states lack the authority to regulate many facets of wireless
21 carrier business practices, including how CMRS carriers recover costs associated with contributing
22 to state programs. For instance, the Federal Communications Commission (“FCC”) found in
23 Pittencrief Communications, Inc., Memorandum Opinion and Order, 13 F.C.C.R. 1735 (1997),
24 *aff’d*, CTIA v. FCC, 168 F.3d 1332 (D.C. Cir. 1999), that although the requirement to contribute to
25 a state universal service program did not violate the prohibition against rate regulation, states do
26 not have authority to prescribe how wireless carriers recover the costs of state programs from
27 customers: “That is, states generally are precluded from regulating the rates that CMRS providers

1 **ORIGINAL** and **10 COPIES** of the
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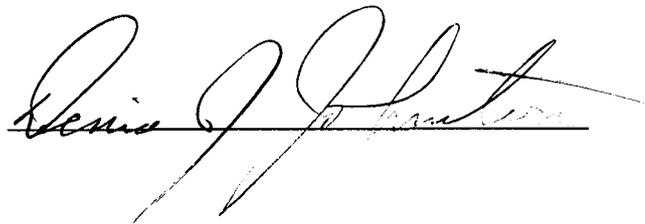
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