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BEFORE THE ARIZONA CORPORATION COMMISSION

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

Docket No. RT-00000J-99-0034

**COMMENTS OF COX ARIZONA TELCOM, L.L.C.  
ON PROPOSED RULES FOR UNAUTHORIZED CARRIER  
CHANGES AND UNAUTHORIZED CARRIER CHARGES**

Cox Arizona Telcom, L.L.C. ("Cox") submits the following comments on the proposed rules in this docket:

**UNAUTHORIZED CARRIER CHANGES  
(R14-2-1901 TO -1914)**

**R14-2-1901. Definitions**

R14-2-1901.G: Although the slamming and cramming rules are appropriate in the residential service context, the rules may not be appropriate in business service situations where there is a written contract between the Telecommunications Company and the business customer. In those situations, the services to be provided are spelled out in writing and cannot be modified except in writing. Therefore, Cox submits that the term "Subscriber" be modified to exclude business customers who receive telecommunications services under a written contract. A proposed revision to this subsection is attached as Exhibit A.

**R14-2-1905. Verification of Orders for Telecommunications Services**

R14-2-1905.C: This subsection discusses a letter of agency combined with a marketing check and the required notice near the endorsement line on the check. The subsection requires that notice be in both English and Spanish, as well as any other language used in the sales

1 transaction. The “other language” requirement is unnecessary in this context given that most of  
2 these offers do not occur in face-to-face sales transactions. A proposed revision to this subsection  
3 is attached as Exhibit A.

4 **R14-2-1906. Notice of Change**

5 This section indicates where an Authorized Carrier can provide notice of a change  
6 in a service provider through several methods. Cox proposes that the section be clarified to  
7 expressly indicate that the notice be sent to the Subscriber. A proposed revision to this section is  
8 attached as Exhibit A.

9 **R14-2-1908. Notice of Subscriber Rights**

10 R14-2-1908.B.11: This subsection provides that the Subscriber notice include  
11 information about the availability of a freeze on the Subscriber’s accounts. This subsection needs  
12 to be clarified to apply only to intraLATA and interLATA toll service provider freezes. A  
13 proposed revision to this subsection is attached as Exhibit A.

14 R14-2-1908.C.1: This subsection sets forth when a Notice of Subscriber Rights  
15 must be provided to new customers. This subsection needs to be clarified that a Telecom-  
16 munications Company need only provide such notice to *its* new customers. A proposed revision  
17 to this subsection is attached as Exhibit A.

18 **R14-2-1910. Informal Complaint Process**

19 R14-2-1910.B.8: This subsection provides that a failure to provide information  
20 requested by Staff or a good faith response within fifteen (15) business days of a request will be  
21 deemed an admission of a violation of these rules. Cox objects to such a procedural denial of due  
22 process, particularly when that admitted “violation” will simply become part of the Staff’s  
23 nonbonding summary of its review on the informal complaint. Cox submits that the failure to  
24 respond would more appropriately be considered, at most, a rebuttal presumption of a violation  
25 that could be disproved at a hearing on a formal complaint. A proposed revision to this  
26 subsection is attached as Exhibit A.

27 ...



1 transaction in Spanish on the spot. That is not always possible and would place an unreasonable  
2 burden on the Company's staffing requirements. It would be more reasonable for a Company to  
3 delay a sales transaction if it could not conduct that transaction in Spanish as requested to do so.  
4 A proposed revision to this subsection is attached as Exhibit A.

5 R14-2-2005.D: This subsection imposes a requirement to inform a subscriber of  
6 the cost of "basic local exchange telephone service" during each potential sales transaction. Cox is  
7 concerned about the requirement to quote the "basic" rate in many of the consumer/company  
8 contacts. Cox believes that this requirement potentially (i) will create confusion by providing  
9 information the consumer did not request, (ii) use terminology – "basic service" – that may not be  
10 known or understood by the consumer and (iii) significantly increase the time of the contact. For  
11 example, "basic local exchange telephone service" is defined by A.A.C. R14-2-1201(6) to include:  
12 (a) access to a one-party residential service with a voice grade line; (b) access to touchtone  
13 capabilities; (c) access to an interexchange carrier; (d) access to emergency services, including but  
14 not limited to emergency 911; (e) access to directory assistance service; (f) access to operator  
15 service; (g) access to a white page or similar directory listing; and (h) access to telephone relay  
16 systems for the hearing and speech impaired.

17 Explaining what constitutes the basic service and then explaining what each  
18 element of that basic service means – will be an overwhelming challenge that could lead to  
19 significant confusion of the consumer. Moreover, this subsection arguably could apply to every  
20 mass marketing contact with a consumer, such as television or radio advertising. Again, given the  
21 restrictions of the media, it would be very difficult to present the information in a way that would  
22 explain what a basic service is without confusing the consumer.

23 Cox submits that this subsection should be deleted to avoid these potential  
24 difficulties and burdens.

25 Alternatively, Cox submits the Commission's concerns could be met simply by  
26 retaining the last two sentences of the subsection which prohibits misleading descriptions of  
27 products or services and limits the use of "basic" in the name of any service only to "basic local

1 exchange telephone service.” This would significantly reduce or eliminate the confusion about a  
2 request for “basic” service.

3 **R14-2-2008. Informal Complaint Process**

4 R14-2-2008.B.8: This subsection provides that a failure to provide information  
5 requested by Staff or a good faith response within fifteen (15) business days of a request will be  
6 deemed an admission of a violation of these rules. Cox objects to such a procedural denial of due  
7 process, particularly when that admitted “violation” will simply become part of the Staff’s  
8 nonbonding summary of its review on the informal complaint. Cox submits that failure to  
9 respond would more appropriately be considered, at most, a rebuttal presumption of a violation  
10 that could be disproved at a hearing on a formal complaint. A proposed revision to this  
11 subsection is attached as Exhibit A.

12 **R14-2-2012. Script Submission**

13 This section requires the submission of “all scripts used by its (or its agent’s) sales  
14 or customer service workers.” The present wording of this section is vague and potentially  
15 overreaching. Arguably it could require submission of customer service scripts used to walk a  
16 customer through the procedures to operate certain features of their service, such as call  
17 forwarding, or scripts used to explain other customer service issues. Moreover, this section could  
18 be read to require submission of documents such as mass marketing scripts used in television or  
19 radio advertising. Cox submits that this section should be clarified to limit submissions to scripts  
20 used to directly solicit new services from individual consumers in Arizona. A proposed revision  
21 to this section is attached as Exhibit A.

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RESPECTFULLY SUBMITTED June 7, 2002.

**COX ARIZONA TELCOM, L.L.C.**

By 

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**EXHIBIT A**

## ARTICLE 19. CONSUMER PROTECTIONS FOR UNAUTHORIZED CARRIER CHANGES

### R14-2-1901. Definitions

- G. "Subscriber" means the Customer identified in the account records of a Telecommunications Company; and any person authorized by such Customer to change telecommunications services or to charge services to the account; or any person contractually or otherwise lawfully authorized to represent such Customer. "Subscriber" shall not include a business customer that has executed a contract for telecommunications services with a Telecommunications Company.

### R14-2-1905. Verification of Orders for Telecommunications Service

- C. A Letter of Agency may be combined with a marketing check. The Letter of Agency when combined with a marketing check shall not contain promotional language or material. The Letter of Agency when combined with a marketing check shall have on its face and near the endorsement line a notice in bold-face type that the Subscriber authorizes a Telecommunications Company change by signing the check. The notice shall be in easily readable, bold-face type and shall be written in both English and Spanish, ~~as well as in any other language which was used at any point in the sales transaction.~~

### R14-2-1906. Notice of Change

When an Authorized Carrier changes a Subscriber's service, the Authorized Carrier, or its billing and collection agent, shall clearly and conspicuously identify any change in service provider, including the name of the new Authorized Carrier and its telephone number on a bill or bill insert to the Subscriber ~~a bill insert~~, or in a separate mailing to the Subscriber. The notice of change shall be printed in both English and Spanish.

### R14-2-1908. Notice of Subscriber Rights

- B. The Subscriber notice shall include the following:
11. A Subscriber can request their local exchange company place a an intraLATA or interLATA toll service freeze on the Customer's telecommunications service account.
- C. Distribution, language and timing of notice.
1. A Telecommunications Company shall provide the notice described in this Section to its new Customers at the time service is initiated, and upon a Subscriber's request.

**R14-2-1910. Informal Complaint Process**

**B. Commission Staff shall:**

8. Inform the Telecommunications Company that failure to provide the requested information or a good faith response to Commission Staff within 15 business days shall be deemed an a rebuttable admission to the allegations contained within the request and a rebuttable presumption of a ~~the Telecommunications Company shall be deemed in violation of the applicable provisions of this Article.~~

**R14-2-1914. Script Submission**

Each Telecommunications Company shall file under seal in a docket designated by the Director of the Utilities Division a copy of all scripts used by its (or its agent's) sales or customer service workers for outbound direct marketing of telecommunications services to individual consumers in Arizona. The Director of the Utilities Division may request further information or clarification on any script, and the Telecommunications Company shall respond to the Director's request within 10 days. The Director of the Utilities Division may initiate a formal complaint under R14-3-101 through R14-3-113 to review any script. The failure to file such a complaint or request further information or clarification does not constitute approval of the script, and the fact that the script is on file with the Commission may not be used as evidence that the script is just, reasonable, or not fraudulent.

## ARTICLE 20. CONSUMER PROTECTIONS FOR UNAUTHORIZED CARRIER CHARGES

### R14-2-2001. Definitions

- D. "Subscriber" means the Customer identified in the account records of a Telecommunications Company; any person authorized by such Customer to change telecommunications services or to charge services to the account; or any person contractually or otherwise lawfully authorized to represent such Customer. "Subscriber shall not include a business customer that has executed a contract for telecommunications services with a Telecommunications Company."

### R14-2-2005. Authorization Requirements

- C. The authorization required by R14-2-2005(A) and the communications required by R14-2-2005(B) shall be ~~given~~ provided in all languages used at any point in the sales transaction. At the beginning of any sales transaction, the Telecommunications Company must ~~offer to~~ notify the customer that it has the option to conduct the transaction in English or Spanish and must comply with the Customer's choice or delay the transaction until it can comply with Customer's choice.

### R14-2-2008. Informal Complaint Process

- B. The Commission Staff shall:
8. Inform the Telecommunications Company that failure to provide the requested information or a good faith response to Commission Staff within 15 business days shall be deemed ~~as~~ a rebuttable admission to the allegations contained within the request and a rebuttable presumption of a ~~the Telecommunications Company shall be deemed in violation of the applicable provisions of this Article.~~

### R14-2-2012. Script Submission

Each Telecommunications Company shall file under seal in a docket designated by the Director of the Utilities Division a copy of all scripts used by its (or its agent's) sales or customer service workers for outbound direct marketing of telecommunications services to individual consumers in Arizona. The Director of the Utilities Division may request further information or clarification on any script, and the Telecommunications Company shall respond to the Director's request within 10 days. The Director of the Utilities Division may initiate a formal complaint under R14-3-101 through R14-3-113 to review any script. The failure to file such a complaint or request further information or clarification does not constitute approval of the script, and the fact that the script is on file with the Commission may not be used as evidence that the script is just, reasonable, or not fraudulent.