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MAY 03 2002

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

DOCKET NO. RT-00000J-99-0034

**QWEST CORPORATION'S NOTICE OF
FILING REVISIONS TO PROPOSED
RULES**

Qwest Corporation ("Qwest"), through its undersigned counsel, hereby submits the attached recommended revisions to the Arizona Corporation Commission's ("Commission") proposed slamming and cramming rules. In order to facilitate comparisons, Qwest has also included a red-lined version of its rules showing language that has been added or deleted from Staff's November 9th 2001 proposed rules. Qwest incorporates its exceptions filed November 23rd, 2001, and prior written comments filed on June 12, 2001 and August 6, 2001, which detail Qwest's concerns on a rule-by-rule basis, to the extent that Staff did not adopt the revisions set forth therein.

Proposed Slamming Rules

The Federal Communications Commission ("FCC") has already established rules governing the steps that carriers must take before changing a customer's telephone service. See 47 C.F.R. §64.1100 et seq. Subsequently, the FCC gave the states the authority to administer these rules, advising state commissions to "provide prompt and appropriate resolution of slamming disputes between customers and carriers in a manner consistent with the rules adopted by this Commission [the FCC]." See In the Matter of Implementation of the Subscriber Carrier Selection Changes Provisions of the Telecommunications Act of 1996, etc., CC Docket No. 94-129, FCC 00-135, First Order on Reconsideration, 22, 26 (rel. May 3, 2000). (emphasis added).

1 Arizona law also mandates consistency between the federal and state regulatory
2 regimes regarding slamming and its consequences. See A.R.S. § 44-1572 and § 44-1573.
3 Arizona statutes authorize the Commission to adopt these rules only insofar as they are
4 consistent with federal law and regulations. A.R.S. § 44-1572(L) and § 44-1573(K).

5 The proposed rules provide that the Commission has elected to administer the
6 federal slamming rules; nevertheless, the proposed rules go on to establish requirements that
7 either directly conflict with the federal rules or create uncertainty between the federal and state
8 regulatory schemes. The more the FCC and Arizona rules mirror each other, the better from
9 both an administrative and policy perspective, as well as, from the consumers' perspective.

10 The rules attached to this pleading contain revisions that incorporate Qwest's
11 previously stated specific concerns about the proposed rules. Much of what Qwest proposes is
12 simply an attempt to more clearly state the intent of the rules. However, there are several issues
13 that Qwest would strongly urge the Commission to consider prior to adopting the proposed rules.
14 For instance, proposed rule R14-2-1908, Notice of Subscriber Rights, subsection B(1), requires a
15 telecommunications company to provide the address where a subscriber can contact the
16 company. This requirement will result in costly changes to the telecommunication company's
17 billing system with little or no benefit to the subscriber. A subscriber can always call the
18 telecommunications provider and obtain address information. Therefore, the rule should be
19 revised to require that only a toll-free telephone number be provided, as is currently done.
20 Subsection C(2) also requires a telecommunications company that publishes a directory to
21 arrange for the notice to appear in its directory. This requirement should be shared by all
22 telecommunications companies. If the Commission wishes to require publication in a directory,
23 the obligation should be imposed on all telecommunications companies, not just on the company
24 that physically prints the directory. Other telecommunications companies currently publish
25 information in Qwest's directory and there is no reason they should not be compelled to fulfill
26 the requirements of Subsection C(2) in a like manner. Thus, the rule should be re-written to

1 either: (1) require each telecommunications company to separately publish notice in a directory;
2 or (2) require each telecommunications company to bear its share of the cost of a generic notice
3 placed on behalf of all companies. Otherwise, the ILEC is penalized for publishing a directory.

4 Proposed rule R14-2-1907 Unauthorized Changes, subsection C(2), absolves the
5 subscriber of all charges incurred during the first 60 days of service provided by the unauthorized
6 carrier if a Subscriber has not paid charges to the Unauthorized Carrier. The FCC's rules absolve
7 subscribers of all charges for a period of 30 days following a slam where the subscriber has not
8 paid charges to the unauthorized carrier. However, there is a significant difference between the
9 FCC's rules and Staff's proposed rules in the way customers are absolved. In the FCC's rules,
10 neither the authorized nor the unauthorized carrier may pursue collection of charges from the
11 customer for calls made during the 30 day absolution period. In Arizona, the authorized carrier
12 is permitted to rebill the customer for calls made during the 60 days following a slam. Further,
13 the unauthorized carrier must refund 150% of the charges to the authorized carrier, who then in
14 turn must apply this to the customer's bill. These conflicting provisions between the FCC's rules
15 and Staff's proposed rules will create administrative problems for telecommunications
16 companies and will lead to customer confusion, particularly when slamming complaints are
17 received which involve both interstate and intrastate calls. Additionally, proposed rule R14-2-
18 1907(D)(2) provides that an unfavorable credit report shall not be filed until the change has been
19 verified, even if there are other unpaid and undisputed charges that would warrant making such a
20 report. This language is unnecessary and should be deleted.

21 Proposed rule R14-2-1909, Customer Account Freeze, subsection D, requires
22 carriers to verify customer requests to remove a freeze consistent with R14-2-1905. This would
23 require that verbal requests to lift a freeze be verified by an independent third party. The FCC
24 mandates a less stringent requirement. See 47 C.F.R. § 64.1190(e). The FCC does not require
25 third party verification. Instead, the FCC requires the local exchange carrier to accept verbal
26 authorization, including a 3-way conversation between the subscriber, the local exchange carrier,

1 and the impacted telecommunications company. The Proposed Rule would require yet a fourth
2 party be included, which will introduce an unnecessary level of complexity into the process (e.g.
3 four-way conferencing capacity issues, customer satisfaction relative to length of time and ease
4 of change, etc.). Qwest's proposed revisions mirror the FCC's language for imposing and lifting
5 preferred carrier freezes.

6 Additionally, proposed rule R14-2-1910, Informal Complaint Process, is
7 unnecessary and should be deleted. As discussed below in regards to Article 20, current
8 Commission rules which govern the complaint process are sufficient to address slamming
9 complaints. Further, the proposed rule does not include any time limit on filing a complaint. An
10 open-ended complaint period will greatly hinder a telecommunications company's ability to
11 research and effectively address any complaint. Therefore, a reasonable time limit, such as 90
12 days, should be included in the rule. The proposed rule also improperly shifts the burden of
13 proof to the telecommunications company to prove that the customer's provider was properly
14 changed. This shift removes the burden from the party best able to establish whether slamming
15 has occurred.

16 **Proposed Cramming Rules**

17 As Qwest has previously indicated, the proposed Article 20 should be eliminated
18 in its entirety. Commission rules and tariffs governing billing disputes and consumer complaints
19 are already in place. See Arizona Administrative Code R14-2-501 et seq. Therefore, there is no
20 need for the Article. Further, there is little the regulated company can do other than to refer the
21 subscriber to the proper entity and recourse the disputed charges.

22 If, however, the Commission chooses to proceed with Article 20, in addition to
23 the concerns previously raised by Qwest there are several changes that are necessary. First,
24 proposed rule R14-2-2004, Requirements for Submitting Authorized Charges, should be revised
25 to clarify that the telecommunications company providing a product or service, not the billing
26 agent, is responsible for ensuring that charges are accurately identified on the bill. This

1 clarification is important because the telecommunications company providing a product or
2 service is the only entity with knowledge of whether the charges are accurate.

3 Second, proposed rule R14-2-2006, Unauthorized Charges, subsection A, does not
4 contain a time limit in which a subscriber must report an authorized charge. An open ended
5 reporting period places an unnecessary burden on the telecommunications company when
6 addressing charges that may be months or years old. Therefore, a reasonable time limit, such as
7 60 days, should be included in the rule.

8 Lastly, proposed rule R14-2-2007, Notice of Subscriber Rights, subsection C(1),
9 requires a telecommunications company to provide the address where a subscriber can contact
10 the company. The same concerns and proposed revisions to proposed rule R14-2-1908(B)(1) are
11 applicable hereto.

12 For the reasons discussed herein, Qwest respectfully requests the Commission to
13 adopt these proposed changes.

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Dated this 3rd day of May, 2002.

FENNEMORE CRAIG, P.C.

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**ARTICLE 19. CONSUMER PROTECTIONS FOR UNAUTHORIZED
CARRIER CHANGES**

- R14-2-1901. Definitions
- R14-2-1902. Authorized Telecommunications Company Change Procedures
- R14-2-1903. Verification of Orders for Telecommunications Service
- R14-2-1904. Notice of Change
- R14-2-1905. Unauthorized Changes
- R14-2-1906. Notice of Subscriber Rights
- R14-2-1907. Subscriber Account Freeze
- R14-2-1908. Informal Complaint Process
- R14-2-1909. Compliance and Enforcement
- R14-2-1910. Waivers

R14-2-1901. Definitions

- A. "Authorized Carrier" means any Telecommunications Company that submits to an Executing Telecommunications Carrier, on behalf of a Subscriber, a change in the Subscriber's selection of a provider of telecommunications service, with the Subscriber's authorization verified in accordance with the procedures specified in this Article.
- B. "Commission" means Arizona Corporation Commission.
- C. "Preferred Carrier Freeze" means an authorization from a Subscriber to prohibit a change in a Subscriber's provider of telecommunications service unless the Subscriber gives the Executing Telecommunications Carrier consent verified in accordance with the procedures specified in this Article.
- D. "Executing Telecommunications Carrier" means any Telecommunications Company that executes a request that a Subscriber's Telecommunications Company be changed.
- E. "Subscriber" means the customer identified in the account records of a Telecommunications Company as responsible for payment of the telephone bill; and any person authorized by such Subscriber to change telecommunications services or to charge services to the account; or any person contractually or otherwise lawfully authorized to represent such Subscriber.
- F. "Telecommunications Company" means a public service corporation, as defined in the Arizona Constitution, Article 15, § 2, which provides telecommunications services within the State of Arizona and over which the Commission has jurisdiction.
- G. "Unauthorized Carrier" means any Telecommunications Company that submits to an Executing Telecommunications Carrier, on behalf of a Subscriber, a change in the Subscriber's selection of a provider of telecommunications service without the Subscriber's authorization verified in accordance with the procedures specified in this Article.
- H. "Unauthorized Change" or "Slamming" means a change in a Telecommunications Company submitted on behalf of a Subscriber that was not authorized in accordance with R14-2-1902 or not verified in accordance with R14-2-1903.
- I. "Unauthorized Charge" means any charge incurred as a result of an Unauthorized Change.

R14-2-1902. Authorized Telecommunications Company Change Procedures

- A. A Telecommunications Company shall not submit a change on behalf of a Subscriber prior to obtaining authorization from the Subscriber and obtaining verification of that authorization in accordance with R14-2-1903.
- B. A Telecommunications Company submitting a change shall maintain and preserve records of verification of individual Subscriber authorization for 24 months.
- C. An Executing Telecommunications Company shall not contact the Subscriber to verify the Subscriber's selection received from a Telecommunications Company submitting a change.
- D. An Executing Telecommunications Company shall execute such changes as promptly as reasonable business practices will permit from the receipt of a change notice from a submitting Telecommunications Company. The Executing Telecommunications Carrier shall have no liability for processing an Unauthorized Change.
- E. If a Telecommunications Company is selling more than one type of service (e.g., local, intraLATA, or interLATA), it may obtain authorization from the Subscriber for all services authorized during a single contact, but the Telecommunications Company must obtain separate authorization from the Subscriber for each service sold and authorization for each service sold must be verified.

R14-2-1903. Verification of Orders for Telecommunications Service

- A. A Telecommunications Company shall not submit a change order unless it confirms the order by one of the following methods:
 - 1. The Telecommunications Company obtains the Subscriber's written authorization, pursuant to the requirements of this Section.
 - 2. The Telecommunications Company obtains the Subscriber's Internet enabled authorization with electronic signature pursuant to the requirements of this Section.
 - 3. The Telecommunications Company obtains the Subscriber's electronic or voice recorded authorization pursuant to the requirements of this Section.
 - 4. An independent third party, qualified under the criteria set forth in subsection F, obtains and records the Subscriber's verbal authorization for the change that confirms and includes appropriate verification data pursuant to the requirements of this Section.
- B. Written, including Internet, authorization obtained by a Telecommunications Company shall:
 - 1. Be a separate document (or easily separable document) or located on a separate screen or web page, containing only the authorizing language in accordance with verification procedures of this Section,
 - 2. Have the sole purpose of authorizing a Telecommunications Company change,
 - 3. Be signed and dated by the Subscriber requesting the Telecommunications Company change,
 - 4. Be printed with a type of sufficient size and readability so as to be clearly legible,
 - 5. Include the Subscriber's billing name and address information,
 - 6. Include confirmation that the Subscriber wants to make the Telecommunications Company change,

7. Include the name of the newly authorized Telecommunications Company,
 8. Include the telephone numbers to be switched,
 9. Include the types of service involved, and
 10. Include confirmation that the Subscriber designates the Telecommunications Company to act as the Subscriber's agent in order to make the change.
- C. The written authorization may be combined with a marketing check, in which case it shall not contain promotional language or material. The written authorization shall have on its face and near the endorsement line a notice that the Subscriber authorizes a Telecommunications Company change by signing the check. The notice shall be in easily readable, boldface type and shall be in the same language as was used in the underlying sales transaction.
- D. An electronically signed written authorization otherwise meeting the requirements of this Section is valid.
- E. A Telecommunications Company that obtains a Subscriber's electronic voice recorded authorization shall confirm the Subscriber identification and service change information. If a Telecommunications Company elects to verify sales by electronic voice recorded authorization, it shall establish one or more toll-free telephone numbers exclusively for that purpose. A call to the toll-free number must be made from the telephone number(s) on which the authorized carrier is to be changed and shall connect the Subscriber to a recording mechanism that shall record the following information regarding the Telecommunications Company change:
1. The identity of the Subscriber,
 2. Confirmation that the person on the call is authorized to make the Telecommunications Company change,
 3. Confirmation that the person on the call wants to make the Telecommunications Company change,
 4. The name of the newly authorized Telecommunications Company,
 5. The telephone numbers to be switched,
 6. The types of service involved, and
 7. The originating automatic number identification of the telephone number from which the call is made.
- F. A Telecommunications Company that verifies a Subscriber's authorization by an independent third party shall comply with the following:
1. The independent third party shall not be owned, managed, or controlled by the Telecommunications Company or the company's marketing agent.
 2. The independent third party shall not have any financial incentive to verify that Telecommunications Company change orders are authorized.
 3. The independent third party shall operate in a location physically separate from the Telecommunications Company or the company's marketing agent.
 4. The independent third party shall inform the Subscriber that the call is being recorded and shall record the Subscriber's authorization to change the Telecommunications Company.
 5. All third party verification methods shall elicit and record, at a minimum:
 - a. The identity of the Subscriber,
 - b. Confirmation that the person on the call is authorized to make the Telecommunications Company change,

- c. Confirmation that the person on the call wants to make the Telecommunications Company change,
 - d. The name of the newly authorized Telecommunications Company,
 - e. The telephone numbers to be switched, and
 - f. The types of service involved.
6. The independent third party shall conduct the verification in the same language as was used in the initial sales transaction.

R14-2-1904. 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, a bill insert, or in a separate mailing.

R14-2-1905. Unauthorized Changes

- A. A Subscriber shall notify the Unauthorized Carrier within 60 days of receiving a bill with an Unauthorized Change included.
- B. After a Subscriber notifies the Unauthorized Carrier that the change was unauthorized, the Unauthorized Carrier shall take all actions within its control to facilitate the Subscriber's return to the original Telecommunications Company as promptly as reasonable business practices will permit.
- C. If a Telecommunications Company has been notified that an Unauthorized Change has occurred and the Telecommunications Company cannot verify within 30 days that the change was authorized pursuant to R14-2-1903, then with respect to liability and absolution of charges among the Subscriber, the Unauthorized Carrier, the Authorized Carrier, and the Executing Telecommunications Carrier, the Federal Communications Commission regulations shall apply (i.e., 47 C.F.R. § 64.1140-§ 64.1170). The parties may agree to or act in accordance with other dispute resolution practices (including refund by a billing carrier under a theory of customer satisfaction or the like) in lieu of the foregoing requirements.
- D. Until the Telecommunications Company certifies with supporting documentation to the Subscriber that the change was verified pursuant to R14-2-1903, the billing Telecommunications Company shall not suspend, disconnect, or terminate telecommunications service to a Subscriber who disputes any billing charge pursuant to this Section or for nonpayment of a charge related to an unauthorized change.
- E. The Subscriber shall remain obligated to pay any charges that are not disputed.
- F. The Telecommunications Company shall maintain and preserve individual Subscriber records of Unauthorized Change complaints for 12 months.

R14-2-1906. Notice of Subscriber Rights

- A. A Telecommunications Company shall provide to each of its Subscribers notice of the Subscriber's rights regarding Unauthorized Changes and Unauthorized Charges.
- B. The Subscriber notice shall include the following:
 - 1. The name and telephone number where a Subscriber can contact the Telecommunications Company;

2. A statement that a Telecommunications Company is prohibited from changing telecommunications service to another company without the Subscriber's permission;
 3. A statement that an Unauthorized Telecommunications Carrier changing telecommunications service without the Subscriber's permission is required to remove all Unauthorized Charges from the Subscriber's account;
 4. A statement that a Subscriber must report an Unauthorized Change within 60 days of receiving a bill including an Unauthorized Change;
 5. A statement that a Subscriber who has been slammed can contact the Unauthorized Carrier to request the service be changed back in accordance with R14-2-1905;
 6. A statement that a Subscriber who has been slammed can report the Unauthorized Change to the Arizona Corporation Commission;
 7. The name, address, web site, and toll free consumer services telephone number of the Arizona Corporation Commission;
 8. A statement that a Subscriber can request that the local exchange company place a freeze on the Subscriber's telecommunications service account with regard to its choice of Authorized Telecommunications Carrier.
- C. Distribution, language and timing of notice.
1. A Telecommunications Company shall provide the notice described in this Section to new Subscribers at the time service is initiated, and upon a Subscriber's request.
 2. Each Telecommunications Company shall arrange for publication of its notice in the white pages of a telephone directory.
 3. A Telecommunications Company with a web site shall display the notice described in this Section on the company's web site.

R14-2-1907. Preferred Carrier Freeze

- A. A Preferred Carrier Freeze prevents a change in a Subscriber's Telecommunications Company provider until the Subscriber gives consent to lift the freeze.
- B. A Telecommunications Company that offers Preferred Carrier Freezes must comply with the following:
1. Preferred Carrier Freezes shall be offered on a nondiscriminatory basis to all Subscribers.
 2. Solicitations and other freeze procedures shall clearly distinguish among the Preferred Carrier Freezes that may be available.
 3. Material and information provided by the Telecommunications Companies that offers or solicits a Preferred Carrier Freeze must (i) explain, in clear neutral language, what a Preferred Carrier Freeze is and what services may be subject to a freeze; (ii) describe the specific procedures necessary to lift a freeze, and explain that those steps are in addition to the verification rules for changing their Authorized Carrier; (iii) explain that the Subscriber will be unable to change their Authorized Carrier unless the freeze is lifted; and (iv) explain any applicable charges.

4. No Telecommunications Company shall implement a Preferred Carrier Freeze unless the Subscriber's request for the freeze has first been confirmed in one of the following ways:
- (a) The Telecommunications company obtains the Subscriber's written authorization, including Internet enabled authorization with electronic signature (an electronically signed authorization that meets these requirements is valid), which must:
 - (i) Be a separate document (or easily separable document) or located on a separate screen or web page, containing only the information and authorizing language in accordance with these rules, have the sole purpose of authorizing the imposition of the Preferred Carrier Freeze, and be signed and dated by the Subscriber requesting the Preferred Carrier Freeze.
 - (ii) Not be combined on the same document, screen, or webpage with inducements of any kind.
 - (iii) Be translated into the same language as any promotional materials, oral descriptions or instructions provided with the written authorization, and if any part of it is translated into another language, then all portions of it must be translated into that language.
 - (iv) Be printed with a type of sufficient size and readability so as to be clearly legible.
 - (v) Confirm and include: (a) the Subscriber's billing name and address, and the telephone number(s) to be covered by the freeze; (b) the decision to place a Preferred Carrier Freeze on the telephone number(s) and particular service(s), as well as separate statements regarding the particular selection(s) to be frozen; (c) that the Subscriber understands that she or he will be unable to make a change in carrier selection unless the freeze is lifted; and (d) if applicable, the charge for establishing the freeze.
 - (b) The Telecommunications Company obtains the Subscriber's electronic or voice-recorded authorization which shall confirm the Subscriber identification and selection of a Preferred Carrier Freeze. If a Telecommunications Company elects to verify freezes by electronic voice recorded authorization, it shall establish one or more toll-free telephone numbers exclusively for that purpose. A call to the toll-free number shall connect the Subscriber to a recording mechanism that shall record and confirm the following information regarding the freeze: (i) the Subscriber's billing name and address, and the telephone number(s) to be covered by the freeze; (ii) the decision to place a Preferred Carrier Freeze on the telephone number(s) and particular service(s), as well as separate statements regarding the particular selection(s) to be frozen; (iii) that the Subscriber understands that she or he will be unable to make a change in carrier selection unless the freeze is lifted; and (iv) if applicable, the charge for establishing the freeze.

- (c) The Telecommunications Company obtains an oral, recorded verification by an independent third party, qualified under the criteria set forth in R14-2-1093(F) subsections 1 through 4, that confirms and includes appropriate verification data (such as the Subscriber's date of birth, or social security number) and the following information regarding the freeze: (i) the Subscriber's billing name and address, and the telephone number(s) to be covered by the freeze; (ii) the decision to place a Preferred Carrier Freeze on the telephone number(s) and particular service(s), as well as separate statements regarding the particular selection(s) to be frozen; (iii) that the Subscriber understands that she or he will be unable to make a change in carrier selection unless the freeze is lifted; and (iv) if applicable, the charge for establishing the freeze. The independent third party shall conduct the verification in the same language as was used in the initial sales transaction.
- C. A local exchange carrier that offers a Preferred Carrier Freeze must, at a minimum, offer Subscribers the following procedures for lifting a Preferred Carrier Freeze:
 - 1. A Subscriber's written or electronically signed authorization stating the intent of the Subscriber to lift the Preferred Carrier Freeze; and
 - 2. A Subscriber's oral authorization stating the intent of the Subscriber to lift the Preferred Carrier Freeze, and a mechanism must be available that allows submitting carriers to conduct a three-way conference call with the local exchange carrier administering the freeze and the Subscriber in order to lift a freeze. During the oral authorization, the administering local exchange carrier shall confirm the Subscriber's identity (e.g., the Subscriber's date of birth, social security number) as well as the Subscriber's intent to lift the particular freeze.
- D. A Telecommunications Company shall not charge the Subscriber for imposing or lifting a freeze except under a Commission approved tariff.

R14-2-1908. Informal Complaint Process

- A. A Subscriber may file an informal complaint within 90 days of receiving a bill including an Unauthorized Change. The complaint shall be submitted to the Commission Staff in writing, telephonically, or via electronic transmission, and shall include:
 - 1. The complainant's name, address, telephone number;
 - 2. The names of the Telecommunications Companies involved;
 - 3. The approximate date of the alleged Unauthorized Change;
 - 4. A statement of facts, including documentation, to support the complainant's allegation;
 - 5. The amount of any disputed charges, including any amount already paid; and
 - 6. The specific relief sought.
- B. Commission Staff shall:
 - 1. Assist the parties in resolving the informal complaint;
 - 2. Notify the Executing Telecommunications Company, original Telecommunications Company, and alleged Unauthorized Carrier of the alleged Unauthorized Change;
 - 3. Request that the alleged Unauthorized Carrier provide an initial response within 5 business days;

4. Request that the alleged Unauthorized Carrier provide documentation of the Subscriber's authorization.
- C. The Unauthorized Carrier shall provide Staff with any other additional information Staff requests concerning the alleged Unauthorized Change within 20 business days of the Unauthorized Carrier's receipt of such Staff request.
- D. If the parties do not resolve the matter, the Staff will conduct a review of the informal complaint and related materials to determine if an Unauthorized Change has occurred, which review shall be completed within 60 days of the Staff's receipt of the informal complaint.
- E. Upon conclusion of its review, Staff shall render a written summary of its findings and recommendation to all parties. Staff's written summary is not binding on any party. Any party shall have the right to file a formal complaint with the Commission pursuant to A.R.S. § 40-246.

R14-2-1909. Compliance and Enforcement

The Commission Staff shall coordinate its enforcement efforts regarding alleged slamming violations with the Arizona Attorney General to ensure consistent treatment.

R14-2-1910. Waivers

- A. The Commission may waive compliance with any of the provisions of this Article upon a finding that such a waiver is in the public interest.
- B. A Telecommunications Company may petition the Commission for a waiver of any provision of this Article by filing an application setting forth with specificity the waiver being sought, and the circumstances showing that a waiver is in the public interest.



ARTICLE 19. CONSUMER PROTECTIONS FOR UNAUTHORIZED CARRIER CHANGES

- R14-2-1901. Definitions
- R14-2-1902. Purpose and Scope
- ~~R14-2-1903.~~ Application ~~R14-2-1904.~~ Authorized Telecommunications Company Change Procedures
- ~~R14-2-1905.~~1903. Verification of Orders for Telecommunications Service
- ~~R14-2-1904.~~ Notice of Change
- ~~R14-2-1905.~~ Unauthorized Changes
- ~~R14-2-1906.~~ Notice of Change
- ~~R14-2-1907.~~ Unauthorized Changes ~~R14-2-1908.~~ Notice of Subscriber Rights
- ~~R14-2-1909.~~1907. ~~Customer~~Subscriber Account Freeze
- ~~R14-2-1910.~~1908. Informal Complaint Process
- ~~R14-2-1911.~~1909. Compliance and Enforcement
- ~~R14-2-1912.~~1910. Waivers

R14-2-1901. Definitions

- A. ~~"Authorized Carrier"~~ means any Telecommunications Company that submits to an Executing Telecommunications Carrier, on behalf of a ~~Customer~~Subscriber, a change in the ~~Customer~~Subscriber's selection of a provider of telecommunications service, with the Subscriber's authorization verified in accordance with the procedures specified in this Article.
- B. "Commission" means Arizona Corporation Commission.
- ~~C.~~ "Customer" means the person or entity in whose name service is rendered, as evidenced by the signature on the application or contract for service, or by the receipt or payment of bills regularly issued in their name regardless of the identity of the actual user of service.
- ~~C.~~ ~~D.~~ "Preferred Account Carrier Freeze" ("freeze") means an authorization, whether written, electronic, or internet with electronic signature authorization or verbal with third party verification, from a Subscriber to ~~impose~~prohibit a stay on any change in a Subscriber's provider of telecommunications service ~~unless the Subscriber gives the Executing Telecommunications Carrier consent verified in accordance with the procedures specified in this Article.~~
- ~~D.~~ ~~E.~~ "Executing Telecommunications Carrier" means any Telecommunications Company that ~~effects~~executes a request that a Subscriber's Telecommunications Company be changed.
- ~~F.~~ "Letter of Agency" means written authorization, including internet enabled with electronic signature, from a Subscriber for a change in Telecommunications Company.
- ~~E.~~ ~~G.~~ "Subscriber" means the ~~Customer~~customer identified in the account records of a Telecommunications Company as responsible for payment of the telephone bill; and any person authorized by such ~~Customer~~Subscriber to change telecommunications services or to charge services to the account; or any person contractually or otherwise lawfully authorized to represent such ~~Customer~~Subscriber.

- F.** ~~H.~~ "Telecommunications Company" means a public service corporation, as defined in the Arizona Constitution, Article 15, § 2, which provides telecommunications services within the ~~state~~State of Arizona and over which the Commission has jurisdiction.
- G.** ~~I.~~ "Unauthorized Carrier" means any Telecommunications Company that submits to an Executing Telecommunications Carrier, on behalf of a ~~Customer~~Subscriber, a change in the ~~Customer~~Subscriber's selection of a provider of telecommunications service without the ~~subscriber~~Subscriber's authorization verified in accordance with the procedures specified in this Article.
- H.** ~~J.~~ "Unauthorized Change" (~~"slamming"~~) or "Slamming" means a change in a Telecommunications Company submitted on behalf of a Subscriber that was not authorized in accordance with R14-2-~~1904~~1902 or not verified in accordance with R14-2-~~1905~~1903.
- I.** ~~K.~~ "Unauthorized Charge" means any charge incurred as a result of an Unauthorized Change.

R14-2-1902.— Purpose and Scope

~~These rules are intended to ensure that all Customers in this state are protected from an Unauthorized Change in their intraLATA, or interLATA long-distance Telecommunications Company. The rules promote satisfactory service to the public by local and intraLATA or interLATA long-distance Telecommunications Companies by establishing the rights and responsibilities of both company and Customer. The rules establish liability standards and penalties to ensure compliance.~~

R14-2-1903.— Application—

~~These rules apply to each Telecommunications Company. These rules do not apply to providers of wireless, cellular, personal communications services, or commercial radio services, until those Telecommunications Companies are mandated by law to provide equal access. The Commission elects, under 47 C.F.R. 64.1110(a), to administer the "Federal Slamming Rules", 47 C.F.R. 64.1100 through 47 C.F.R. 64.1195, for telecommunications services subject to Federal jurisdiction. This Article applies to telecommunications services subject to federal jurisdiction to the extent that this Article is consistent with the Federal Slamming Rules. R14-2-1904.~~

Authorized Telecommunications Company Change Procedures

- A.** A Telecommunications Company shall not submit a change on behalf of a Subscriber prior to obtaining authorization from the Subscriber and obtaining verification of that authorization in accordance with R14-2-~~1905~~1903.
- B.** A Telecommunications Company submitting a change shall maintain and preserve records of verification of individual Subscriber authorization for ~~12~~24 months.
- C.** An Executing Telecommunications Company shall not contact the Subscriber to verify the Subscriber's selection received from a Telecommunications Company submitting a change.
- D.** An Executing Telecommunications Company shall execute such changes as promptly as reasonable business practices will permit, ~~which shall not exceed 15 days~~ from the receipt of a change notice from a submitting Telecommunications Company. The Executing Telecommunications Carrier shall have no liability for processing an Unauthorized Change.

- E. If a Telecommunications Company is selling more than one type of service, for example, (e.g., local, intraLATA, or interLATA), it may obtain authorization from the Subscriber for all services authorized during a single contact, but the Telecommunications Company must obtain separate authorization from the Subscriber for each service sold and authorization for each service sold must be verified.

R14-2-1905,1903. Verification of Orders for Telecommunications Service

- A. A Telecommunications Company shall not submit a change order unless it confirms the order by one of the following methods:

1. The Telecommunications Company obtains the Subscriber's written authorization, ~~including internet enabled authorization with electronic signature, in a form that meets~~ pursuant to the requirements of this Section.
2. The Telecommunications Company obtains the Subscriber's ~~electronic or voice-recorded authorization for the change that meets~~ Internet including internet enabled authorization with electronic signature, in a form that meets pursuant to the requirements of this Section.
3. The Telecommunications Company obtains the Subscriber's electronic or voice recorded authorization pursuant to the requirements of this Section.
4. ~~3-~~ An independent third party, qualified under the criteria set forth in subsection F, obtains and records the Subscriber's verbal authorization for the change that confirms and includes appropriate verification data pursuant to the requirements of this Section.

- B. Written, including Internet, authorization obtained by a Telecommunications Company shall:

1. Be a separate document (or easily separable document) or located on a separate screen or web page, containing only the authorizing language in accordance with verification procedures of this Section,
2. Have the sole purpose of authorizing a Telecommunications Company change, and
3. Be signed and dated by the Subscriber requesting the Telecommunications Company change,;
4. Be printed with a type of sufficient size and readability so as to be clearly legible,
5. Include the Subscriber's billing name and address information,
6. Include confirmation that the Subscriber wants to make the Telecommunications Company change,
7. Include the name of the newly authorized Telecommunications Company,
8. Include the telephone numbers to be switched,
9. Include the types of service involved, and
10. Include confirmation that the Subscriber designates the Telecommunications Company to act as the Subscriber's agent in order to make the change.

- C. ~~A Letter of Agency~~ The written authorization may be combined with a marketing check- ~~The Letter of Agency check,~~ in which case it shall not contain promotional language or material. The Letter of Agency check written authorization shall have on its face and near the endorsement line a notice that the Subscriber authorizes a Telecommunications Company change by signing the check. The notice shall be in easily readable, bold-

~~face~~**boldface** type and shall be in the same language as was used in the underlying sales transaction.

- D. An electronically signed ~~Letter of Agency~~written authorization otherwise meeting the requirements of this Section is valid ~~written authorization~~.
- E. A Telecommunications Company that obtains a Subscriber's electronic voice recorded authorization shall confirm the ~~Customer~~Subscriber identification and service change information. If a Telecommunications Company elects to verify sales by electronic voice recorded authorization, it shall establish one or more toll-free telephone numbers exclusively for that purpose. A call to the toll-free number must be made from the telephone number(s) on which the authorized carrier is to be changed and shall connect the Subscriber to a recording mechanism that shall record the following information regarding the Telecommunications Company change:
1. The identity of the Subscriber,
 2. Confirmation that the person on the call is authorized to make the Telecommunications Company change,
 3. Confirmation that the person on the call wants to make the Telecommunications Company change,
 4. The name of the newly authorized Telecommunications Company,
 5. The telephone numbers to be switched, ~~and~~
 6. The types of service involved, and
 7. The originating automatic number identification of the telephone number from which the call is made.
- F. A Telecommunications Company that verifies a Subscriber's authorization by an independent third party shall comply with the following:
1. The independent third party shall not be owned, managed, or controlled by the Telecommunications Company or the company's marketing agent.
 2. The independent third party shall not have any financial incentive to verify that Telecommunications Company change orders are authorized.
 3. The independent third party shall operate in a location physically separate from the Telecommunications Company or the company's marketing agent.
 4. The independent third party shall inform the Subscriber that the call is being recorded and shall record the Subscriber's authorization to change the Telecommunications Company.
 5. All third party verification methods shall elicit and record, at a minimum:
 - a. The identity of the Subscriber,
 - b. Confirmation that the person on the call is authorized to make the Telecommunications Company change,
 - c. Confirmation that the person on the call wants to make the Telecommunications Company change,
 - d. The name of the newly authorized Telecommunications Company,
 - e. The telephone numbers to be switched, and
 - f. The types of service involved.
 6. The independent third party shall conduct the verification in the same language as was used in the initial sales transaction.

R14-2-1906.1904. 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, a bill insert, or in a separate mailing.

R14-2-1907.1905. Unauthorized Changes

- A. A Subscriber shall notify the Unauthorized Carrier within 60 days of receiving ~~notice of a bill with~~ an Unauthorized Change included.
- B. After a Subscriber notifies the Unauthorized Carrier that the change was unauthorized, the Unauthorized Carrier shall take all actions within its control to facilitate the Subscriber's return to the original Telecommunications Company as promptly as reasonable business practices will permit, ~~but no later than 5 business days from the date of the Subscriber's notification to it.~~
- ~~C.~~ C. If a Telecommunications Company has been notified that an Unauthorized Change has occurred and the Telecommunications Company cannot verify within ~~5 business~~30 days that the change was authorized pursuant to R14-2-1905, ~~the Telecommunications Company shall: 1903, then with respect to liability and absolution of charges among the Subscriber, the Unauthorized Carrier, the Authorized Carrier, and the Executing Telecommunications Carrier, the Federal Communications Commission regulations shall apply (i.e., 47 C.F.R. § 64.1140-§ 64.1170). The parties may agree to or act in accordance with other dispute resolution practices (including refund by a billing carrier under a theory of customer satisfaction or the like) in lieu of the foregoing requirements.~~
- ~~1. Pay all charges to the original Telecommunications Company associated with returning the Subscriber to the original Telecommunications Company as promptly as reasonable business practices will permit, but no later than 30 business days from the date of the Telecommunications Company failure to confirm authorization of the change;~~
 - ~~2. Absolve the Subscriber of all charges incurred during the first 60 days of service provided by the Unauthorized Carrier if a Subscriber has not paid charges to the Unauthorized Carrier;~~
 - ~~3. Forward relevant billing information to the original Telecommunications Carrier within 15 business days of a Subscriber's notification. The original Telecommunications Company may bill the Subscriber for unauthorized service charges incurred during the first 60 days of the Unauthorized Carrier's service at the original Telecommunications Company's rates;~~
 - ~~4. Refund to the original Telecommunications Company, 150% of any Unauthorized Carrier's charges that a Subscriber paid to the Unauthorized Carrier. The original Telecommunications Company shall apply the credit of 150% to the Subscriber's authorized charges.~~
- D. Until the Telecommunications Company certifies with supporting documentation to the Subscriber that the change was verified pursuant to R14-2-1905,1903, the billing Telecommunications Company shall not: suspend, disconnect, or terminate telecommunications service to a Subscriber who disputes any billing charge pursuant to this Section or for nonpayment of a charge related to an unauthorized change, or change.

- ~~1. Suspend, disconnect, or terminate telecommunications service to a Subscriber who disputes any billing charge pursuant to this Section or for nonpayment of a charge related to an unauthorized change, or~~
- ~~2. File an unfavorable credit report against a Customer who has not paid charges that the Subscriber has alleged were unauthorized.~~

- E. The ~~Customer~~Subscriber shall remain obligated to pay any charges that are not disputed.
- F. The Telecommunications Company shall maintain and preserve individual ~~Customer~~Subscriber records of Unauthorized Change complaints for 12 months.

R14-2-1908,1906. Notice of Subscriber Rights

- A. A Telecommunications Company shall provide to each of its Subscribers notice of the Subscriber's rights regarding Unauthorized Changes and Unauthorized Charges.
- B. The Subscriber notice shall include the following:
1. The name, address and telephone numbers~~number~~ where a Subscriber can contact the Telecommunications Company;
 2. A statement that a Telecommunications Company is prohibited from changing telecommunications service to another company without the Subscriber's permission;
 3. AnA statement that an Unauthorized Telecommunications Carrier changing telecommunications service without the Subscriber's permission is required to remove all Unauthorized Charges from the Subscriber's account;
 - ~~4. A Telecommunications Company that has switched telecommunications service without the Subscriber's permission is required to pay all charges associated with returning the Customer to the original Telecommunications Company as promptly as reasonable business practices will permit, but no later than 30 business days from the Subscriber's request;~~
 - ~~5. An Unauthorized Carrier shall absolve a Subscriber of all unpaid charges which were incurred during the first 60 days of service provided by the Unauthorized Carrier;~~
 - ~~6. If a Subscriber incurred charges for service provided during the first 60 days of service with the Unauthorized Carrier, the Unauthorized Carrier shall forward the relevant billing information to the original Telecommunication Company. The original Telecommunications Company may bill the Customer for those services at the original Telecommunications Company's rates;~~
 - ~~7. If a Subscriber has paid charges to the Unauthorized Carrier, the Unauthorized Carrier must pay 150% of the charges to the original Telecommunications Company and the original Telecommunications Company shall apply the 150% as credit to the Customer's authorized charges;~~
 4. A statement that a Subscriber must report an Unauthorized Change within 60 days of receiving a bill including an Unauthorized Change;
 5. 8. AA statement that a Subscriber who has been slammed can contact the Unauthorized Carrier to request the service be changed back in accordance with R14-2-19071905;
 6. 9. A statement that a Subscriber who has been slammed can report the Unauthorized Change to the Arizona Corporation Commission;
 7. 10. The name, address, web site, and toll free consumer services telephone

number of the Arizona Corporation Commission;

8. ~~H.~~ A statement that a Subscriber can request that the local exchange company place a freeze on the CustomerSubscriber's telecommunications service account with regard to its choice of Authorized Telecommunications Carrier.

C. Distribution, language and timing of notice.

1. A Telecommunications Company shall provide the notice described in this Section to new ~~Customers~~Subscribers at the time service is initiated, and upon a Subscriber's request.
2. ~~A~~Each Telecommunications Company ~~that publishes a telephone directory or contract shall~~ arrange for publication of a telephone directory, ~~shall arrange for their~~ notice to appear in the white pages of its ~~annual~~ telephone directory.
3. A Telecommunications Company with a web site shall display the notice described in this Section on the company's web site.

R14-2-1909.1907. CustomerPreferred AccountCarrier Freeze

- A.** A ~~CustomerPreferred AccountCarrier Freeze~~ prevents a change in a Subscriber's ~~intraLATA and interLATA~~ Telecommunications Company ~~selection~~ provider until the Subscriber gives consent to lift the freeze ~~to the local exchange company that implemented the freeze.~~

B. A Telecommunications Company that offers Preferred Carrier Freezes must comply with the following:

1. ~~B.~~ A local exchange company that offers a freezePreferred Carrier Freezes shall be offered on a nondiscriminatory basis to all Subscribers.
2. ~~C.~~ A Telecommunications Company that offers information on freezesSolicitations and other freeze procedures shall clearly distinguish intraLATA and interLATA telecommunications services among the Preferred Carrier Freezes that may be available.

D. A local exchange carrier shall not implement or remove a freeze without authorization obtained consistent with R14-2-1904 and verification consistent with R14-2-1905:

3. Material and information provided by the Telecommunications Companies that offers or solicits a Preferred Carrier Freeze must (i) explain, in clear neutral language, what a Preferred Carrier Freeze is and what services may be subject to a freeze; (ii) describe the specific procedures necessary to lift a freeze, and explain that those steps are in addition to the verification rules for changing their Authorized Carrier; (iii) explain that the Subscriber will be unable to change their Authorized Carrier unless the freeze is lifted; and (iv) explain any applicable charges.

4. No Telecommunications Company shall implement a Preferred Carrier Freeze unless the Subscriber's request for the freeze has first been confirmed in one of the following ways:

- (a) The Telecommunications company obtains the Subscriber's written authorization, including Internet enabled authorization with electronic signature (an electronically signed authorization that meets these requirements is valid), which must:

- (i) Be a separate document (or easily separable document) or located on a separate screen or web page, containing only the information

and authorizing language in accordance with these rules, have the sole purpose of authorizing the imposition of the Preferred Carrier Freeze, and be signed and dated by the Subscriber requesting the Preferred Carrier Freeze.

- (ii) Not be combined on the same document, screen, or webpage with inducements of any kind.
- (iii) Be translated into the same language as any promotional materials, oral descriptions or instructions provided with the written authorization, and if any part of it is translated into another language, then all portions of it must be translated into that language.
- (iv) Be printed with a type of sufficient size and readability so as to be clearly legible.
- (v) Confirm and include: (a) the Subscriber's billing name and address, and the telephone number(s) to be covered by the freeze; (b) the decision to place a Preferred Carrier Freeze on the telephone number(s) and particular service(s), as well as separate statements regarding the particular selection(s) to be frozen; (c) that the Subscriber understands that she or he will be unable to make a change in carrier selection unless the freeze is lifted; and (d) if applicable, the charge for establishing the freeze.
- (b) The Telecommunications Company obtains the Subscriber's electronic or voice-recorded authorization which shall confirm the Subscriber identification and selection of a Preferred Carrier Freeze. If a Telecommunications Company elects to verify freezes by electronic voice recorded authorization, it shall establish one or more toll-free telephone numbers exclusively for that purpose. A call to the toll-free number shall connect the Subscriber to a recording mechanism that shall record and confirm the following information regarding the freeze: (i) the Subscriber's billing name and address, and the telephone number(s) to be covered by the freeze; (ii) the decision to place a Preferred Carrier Freeze on the telephone number(s) and particular service(s), as well as separate statements regarding the particular selection(s) to be frozen; (iii) that the Subscriber understands that she or he will be unable to make a change in carrier selection unless the freeze is lifted; and (iv) if applicable, the charge for establishing the freeze.
- (c) The Telecommunications Company obtains an oral, recorded verification by an independent third party, qualified under the criteria set forth in R14-2-1093(F) subsections 1 through 4, that confirms and includes appropriate verification data (such as the Subscriber's date of birth, or social security number) and the following information regarding the freeze: (i) the Subscriber's billing name and address, and the telephone number(s) to be covered by the freeze; (ii) the decision to place a Preferred Carrier Freeze on the telephone number(s) and particular service(s), as well as separate statements regarding the particular selection(s) to be frozen; (iii) that the Subscriber understands that she or he will be unable to make a change in

carrier selection unless the freeze is lifted; and (iv) if applicable, the charge for establishing the freeze. The independent third party shall conduct the verification in the same language as was used in the initial sales transaction.

- C. A local exchange carrier that offers a Preferred Carrier Freeze must, at a minimum, offer Subscribers the following procedures for lifting a Preferred Carrier Freeze:
1. A Subscriber's written or electronically signed authorization stating the intent of the Subscriber to lift the Preferred Carrier Freeze; and
 2. A Subscriber's oral authorization stating the intent of the Subscriber to lift the Preferred Carrier Freeze, and a mechanism must be available that allows submitting carriers to conduct a three-way conference call with the local exchange carrier administering the freeze and the Subscriber in order to lift a freeze. During the oral authorization, the administering local exchange carrier shall confirm the Subscriber's identity (e.g., the Subscriber's date of birth, social security number) as well as the Subscriber's intent to lift the particular freeze.
- D. ~~E.~~ A Telecommunications Company shall not charge the CustomerSubscriber for imposing or removinglifting a freeze except under a Commission approved tariff.
- F. ~~A local exchange company shall maintain records of all freeze authorizations and repeals for 12 months.~~

R14-2-1910.1908. Informal Complaint Process

- A. ~~A Subscriber may file an informal complaint within 90 days of receiving notice of a bill including an Unauthorized Charge, or, thereafter, upon a showing of good causeChange.~~ The complaint shall be submitted to the Commission Staff in writing, telephonically, or via electronic transmission, and shall include:
1. ComplainantThe complainant's name, address, telephone number;
 2. The names of the Telecommunications Companies involved;
 3. The approximate date of the alleged Unauthorized Change;
 4. A statement of facts, including documentation, to support the complainant's allegation;
 5. The amount of any disputed charges, including any amount already paid; and
 6. The specific relief sought.
- B. Commission Staff shall:
1. Assist the parties in resolving the informal complaint;
 2. Notify the Executing Telecommunications Company, original Telecommunications Company, and alleged Unauthorized Carrier of the alleged Unauthorized Change;
 3. RequireRequest that the alleged Unauthorized Carrier to provide an initial response within 5 business days;
 4. RequireRequest that the alleged Unauthorized Carrier to provide documentation of the Subscriber's authorization. If such information is not provided to Staff within 10 business days of the initial Staff notification, Staff shall presume that an Unauthorized Change occurred;
- C. ~~5. Advise the Telecommunications Company that itThe Unauthorized Carrier shall provide Staff with any other additional information requested by Staff requests~~

concerning the alleged Unauthorized Change within 1020 business days of Staff the Unauthorized Carrier's receipt of such Staff request;

- D.** ~~6. Conduct~~ If the parties do not resolve the matter, the Staff will conduct a review of the informal complaint and related materials to determine if an Unauthorized Change has occurred; and, which review shall be completed within 60 days of the Staff's receipt of the informal complaint.
- ~~7. Inform the Subscriber, Executing Telecommunications Company, alleged Unauthorized Carrier, and original Telecommunications Company of Staff's findings upon conclusion of its review.~~
- C.** ~~In the event a party is dissatisfied with the Staff resolution, the party may appeal the decision in writing to the Director, Utilities Division within 10 business days of notification of the resolution. The Director, Utilities Division shall appoint a Staff arbitrator to hear the appeal.~~
- E.** ~~D. If a party is dissatisfied with the Staff arbitrator's decision, the dissatisfied party may~~ Upon Inform the Subscriber, Executing Telecommunications Company, alleged Unauthorized Carrier, and original Telecommunications Company of Staff's findings upon conclusion of its review-, Staff shall render a written summary of its findings and recommendation to all parties. Staff's written summary is not binding on any party. Any party shall have the right to file a formal complaint underwith the Commission pursuant to A.R.S. § 40-246.

R14-2-1911.1909. Compliance and Enforcement

- A.** ~~A Telecommunications Company shall provide a copy of its records of Subscriber verification and Unauthorized Changes maintained under the requirements of this Article to Commission Staff upon request.~~
- B.** ~~If the Commission finds that a Telecommunications Company is in violation of this Article, the Commission shall order the company to take corrective action as necessary, and the Commission may impose such penalties as are authorized by law. The Commission may sanction a Telecommunications Company in violation of this Article by prohibiting further solicitation of new customers for a specified period, or by revocation of its Certificate of Convenience and Necessity. The Commission may take any other enforcement actions authorized by law.~~
- C.** ~~The Commission Staff shall coordinate its enforcement efforts regarding the prosecution of fraudulent, misleading, deceptive, and anti-competitive business practices~~ alleged slamming violations with the Arizona Attorney General to ensure consistent treatment.

R14-2-1912.1910. Waivers

- A.** The Commission may waive compliance with any of the provisions of this Article upon a finding that such a waiver is in the public interest.
- B.** A Telecommunications Company may petition the Commission for a waiver of any provision of this Article by filing an application setting forth with specificity the waiver being sought, and the circumstances showing that a waiver is in the public interest.

~~R14-2-1913. Severability~~

~~If any provision of this Article is found to be invalid, it shall be deemed severable from the remainder of this Article and the remaining provisions of this Article shall remain in full force and effect.~~

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ARTICLE 20. CONSUMER PROTECTIONS FOR UNAUTHORIZED CARRIER CHARGES

- R14-2-2001. Definitions
- R14-2-2002. Requirements for Submitting Authorized Charges
- R14-2-2003. Authorization Requirements
- R14-2-2004. Unauthorized Charges
- R14-2-2005. Notice of Subscriber Rights
- R14-2-2006. Informal Complaint Process
- R14-2-2007. Compliance and Enforcement
- R14-2-2008. Waivers

R14-2-2001. Definitions

- A. Words and phrases defined in A.R.S. § 44-1571 and A.A.C. R14-2-1901 have the same meaning when used in this article, unless the context otherwise requires.
- B. "Unauthorized Charge" ("cramming") means any charge on a Subscriber's telephone bill that was not authorized in compliance with this section. This does not include one-time pay-per-use charges or taxes and other surcharges that have been authorized by law to be passed through to the Subscriber.

R14-2-2002. Requirements for Submitting Authorized Charges

- A. A Telecommunications Company providing a product or service and utilizing a billing agent for the rendering of its bills shall provide its billing agent with its name, postal address, and telephone number.
- B. A Telecommunications Company providing a product or service shall be responsible for ensuring that the product or service and all associated charges are accurately identified on the Subscriber's bill.
- C. A Telecommunications Company providing a product or service shall be responsible for ensuring that the bill includes its name and a toll-free telephone number that the Subscriber may call for billing inquiries.

R14-2-2003. Authorization Requirements

- A. A Telecommunications Company shall record the date of a product or service request and shall obtain from the Subscriber requesting a product or service the following:
 - 1. The name and telephone number of the Subscriber; and
 - 2. Reasonable assurances that the person placing the order is authorized to order the product or service.
- B. A Telecommunications Company shall communicate the following information to a Subscriber requesting a product or service:
 - 1. A brief, clear, non-misleading description of each product or service requested;
 - 2. A statement of all applicable charges for each product or service requested;
 - 3. An explanation of how to cancel the product or service; and
 - 4. A toll-free telephone number for Subscriber inquiries.
- C. A Telecommunications Company providing a product or service shall maintain a record of the information required by Sections (A) and (B) of this rule for a period of at least 12

months.

R14-2-2004. Unauthorized Charges

- A. A Subscriber shall notify the Telecommunications Company responsible for providing the unauthorized product or service within 60 days of receiving a bill including an Unauthorized Charge.
- B. After a Subscriber notifies the Telecommunications Company responsible for providing the unauthorized product or service, the Telecommunications Company shall take all actions within its control to cease charging the Subscriber for the unauthorized product or service as promptly as reasonable business practices will permit.
- C. If a Telecommunication Company has been notified that an Unauthorized Charge has occurred and the Telecommunications Company cannot verify within 30 days that the charge was authorized pursuant to R14-2-2003, then any amount arising due to the Unauthorized Charge will be absolved, and any payment made by the Subscriber shall be refunded, provided that a Subscriber shall make timely objection to the Unauthorized Charge. As between the Telecommunications Company providing the product or service and the billing agent, the Telecommunications Company shall be responsible for refunds and absolution. The parties may agree to act in accordance with other dispute resolution practices (including refund by a billing Telecommunications Company under a theory of customer satisfaction or the like) in lieu of the foregoing requirements.
- D. Until the Telecommunications Company certifies with supporting documentation to the Subscriber that the charge was authorized pursuant to R14-2-2003, the billing Telecommunications Company shall not suspend, disconnect, or terminate telecommunications service to a Subscriber who disputes any billing charge pursuant to this Section.
- E. The Subscriber shall remain obligated to pay any charges that are not disputed.
- F. The Telecommunications Company shall maintain and preserve individual Subscriber records of Unauthorized Charge complaints for 12 months.

R14-2-2005. Notice of Subscriber Rights

- A. A Telecommunications Company shall provide to each of its Subscribers notice of the Subscriber's rights regarding Unauthorized Charges.
- B. The Subscriber notice shall include the following:
 - 1. The name and toll-free telephone number where a Subscriber can contact the Telecommunications Company;
 - 2. A statement that a Telecommunications Company is prohibited from adding products and services to a Subscriber's account without the Subscriber's authorization;
 - 3. A statement that a Telecommunications Company charging for a product or service without the Subscriber's permission is required to remove all Unauthorized Charges from the Subscriber's account;
 - 4. A statement that a Subscriber must report an Unauthorized Charge within 60 days of receiving a bill including an Unauthorized Charge;
 - 5. A statement that a Subscriber who has been crammed can contact the Telecommunications Company to request that the charges be removed pursuant to R14-2-2004;

6. A statement that a Subscriber who has been crammed can report the Unauthorized Charge to the Arizona Corporation Commission;
 7. The name, address, web site, and toll-free consumer services telephone number of the Arizona Corporation Commission.
- C.** Distribution, language and timing of notice.
1. A Telecommunications Company shall provide the notice described in this Section to new Subscribers at the time service is initiated, and upon a Subscriber's request.
 2. The notice may be combined with the notice required by R14-2-1906.
 3. Each Telecommunications Company shall arrange for publication of its notice in the white pages of a telephone directory.
 4. A Telecommunications Company with a web site shall display the notice described in this Section on the company's web site.

R14-2-2006. Informal Complaint Process

- A.** A Subscriber may file an informal complaint within 90 days of receiving a bill including an Unauthorized Charge. The complaint shall be submitted to the Commission Staff in writing, telephonically, or via electronic transmission, and shall include:
1. Complainant's name, address, telephone number;
 2. The names of the Telecommunications Companies involved;
 3. The approximate date of the alleged Unauthorized Charge;
 4. A statement of facts, including documentation, to support the complainant's allegation;
 5. The amount of any disputed charges including the amount already paid; and
 6. The specific relief sought.
- B.** Commission Staff shall:
1. Assist the parties in resolving the informal complaint;
 2. Notify all Telecommunications Companies involved of the alleged Unauthorized Charge;
 3. Request that the Telecommunications Company providing the unauthorized product or service provide an initial response within 5 business days;
 4. Request that the Telecommunications Company providing the alleged unauthorized product or service provide documentation of the Subscriber's new product or service request.
- C.** The Telecommunications Company responsible for the alleged unauthorized product or service shall provide Staff with any other additional information Staff requests concerning the alleged Unauthorized Charge within 20 business days of the Telecommunications Company's receipt of such Staff request.
- D.** If the parties do not resolve the matter, the Staff will conduct a review of the informal complaint and related materials to determine if an Unauthorized Charge has occurred, which review shall be completed within 60 days of the Staff's receipt of the informal complaint.
- E.** Upon conclusion of its review, Staff shall render a written summary of its findings and recommendation to all parties. Staff's written summary is not binding on any party. Any party shall have the right to file a formal complaint with the Commission pursuant to A.R.S. § 40-246.

R14-2-2007. Compliance and Enforcement

The Commission Staff shall coordinate its enforcement efforts regarding alleged cramming violations with the Arizona Attorney General to ensure consistent treatment.

R14-2-2008. Waivers

- A. The Commission may waive compliance with any provision of this Article upon a finding that such a waiver is in the public interest.
- B. A Telecommunications Company may petition the Commission for a waiver of any provision of this Article by filing an application for waiver setting forth with specificity the waiver being sought and the circumstances showing that a waiver is in the public interest.



ARTICLE 20. CONSUMER PROTECTIONS FOR UNAUTHORIZED CARRIER CHARGES

R14-2-2001.	Definitions
R14-2-2002.	Purpose and Scope
R14-2-2003.	Application
R14-2-2004.	Requirements for Submitting Authorized Charges
R14-2-2005:2003.	Authorization Requirements
R14-2-2006:2004.	Unauthorized Charges
R14-2-2007:2005.	Notice of Subscriber Rights
R14-2-2008:2006.	Informal Complaint Process
R14-2-2009:2007.	Compliance and Enforcement
R14-2-2010:2008.	Waivers

R14-2-2001. Definitions

- ~~A.~~ "Authorized Carrier" means any Telecommunications Company that submits, on behalf of a Customer, a change in the Customer's selection of a provider of telecommunications service, with the Subscriber's authorization verified in accordance with the procedures specified in this Article.
- ~~B.~~ "Commission" means the Arizona Corporation Commission.
- ~~C.~~ "Customer" means the person or entity in whose name service is rendered, as evidenced by the signature on the application or contract for service, or by the receipt or payment of bills regularly issued in their name regardless of the identity of the actual user of service.
- ~~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.
- ~~E.~~ "Telecommunications Company" means a public service corporation, as defined in the Arizona Constitution, Article 15, § 2, that provides telecommunications services within the state of Arizona and over which the Commission has jurisdiction.
- A. Words and phrases defined in A.R.S. § 44-1571 and A.A.C. R14-2-1901 have the same meaning when used in this article, unless the context otherwise requires.
- B. F. "Unauthorized Charge" ("cramming") means any charge on a CustomerSubscriber's telephone bill that was not authorized or verified in compliance with ~~R14-2-2004~~this section. This does not include one-time pay-per-use charges or taxes and other surcharges that have been authorized by law to be passed through to the CustomerSubscriber.

R14-2-2002. Purpose and Scope

~~The provisions of this Article are intended to ensure all Customers in this state are protected from Unauthorized Charges on their bill from a Telecommunications Company.~~

R14-2-2003. Application

~~This Article applies to each Telecommunications Company.~~**R14-2-2004. Requirements for Submitting Authorized Charges**

- A. A Telecommunications Company providing a product or service and utilizing a billing agent for the rendering of its bills shall provide its billing agent with its name, postal address, and telephone number, and a list with detailed descriptions of the products and services it intends to charge on a Customer's bill so that the billing agent may accurately identify the product or service on the Customer's bill.
- B. A Telecommunications Company or its billing agent shall specify the product or service being billed providing a product or service shall be responsible for ensuring that the product or service and all associated charges are accurately identified on the Subscriber's bill.
- C. A Telecommunications Company ~~or its billing agent shall provide the Subscriber with~~ providing a product or service shall be responsible for ensuring that the bill includes its name and a toll-free telephone number that the Subscriber may call for billing inquiries.

R14-2-2005.2003. Authorization Requirements

- A. A Telecommunications Company shall record the date of a product or service request and shall obtain from the Subscriber requesting a product or service the following:
 - 1. The name and telephone number of the ~~Customer;~~ Subscriber; and
 - 2. ~~Verification~~ Reasonable assurances that Subscriber ~~the person placing the order is authorized to order the product or service, and.~~
 - 3. ~~Explicit Subscriber acknowledgement that the charges will be assessed on the Customer's bill.~~
- B. A Telecommunications Company shall communicate the following information to a Subscriber requesting a product or service:
 - 1. ~~An explanation~~ A brief, clear, non-misleading description of each product or service offered; ~~requested;~~
 - 2. ~~An~~ A explanation ~~statement of all applicable charges; for each product or service requested;~~
 - 3. ~~A description of how the charge will appear on the Customer's bill;~~
 - 3. ~~An explanation of how to cancel the product or service can be cancelled;~~ and
 - 4. ~~A toll-free telephone number for Subscriber inquiries.~~
- C. ~~The individual Subscriber authorization record shall be maintained by the~~ A Telecommunications Company providing a product or service shall maintain a record of the information required by Sections (A) and (B) of this rule for a period of at least 12 months.

R14-2-2006.2004. Unauthorized Charges

- A. ~~Upon discovery of an Unauthorized Charge, or upon notification by a~~ A Subscriber of an Unauthorized Charge, the billingshall notify the Telecommunications Company shall: ~~responsible for providing~~ Immediately cease charging the Customer for the unauthorized product or service; within 60 days of receiving a bill including an Unauthorized Charge.
 - 1. ~~Immediately cease charging the Customer for the unauthorized product or service;~~
 - 2. ~~Remove the Unauthorized Charge from the Customer's bill within 45 days;~~
 - 3. ~~Refund or credit to the Customer all money paid by the Customer for any Unauthorized Charge. If any Unauthorized Charge is not refunded or credited within 2 billing cycles, the Telecommunications Company shall pay interest on~~

- the amount of any Unauthorized Charges at an annual rate established by the Commission until the Unauthorized Charge is refunded or credited;
4. Provide the Subscriber all billing records under the control of the Telecommunications Company related to any Unauthorized Charge. The billing records shall be provided within 15 business days of the Subscriber's notification;
 5. Maintain a record of each Unauthorized Charge of every Customer who has experienced any Unauthorized Charge for 12 months. The record shall include:
 - a. The name of the Telecommunications Company;
 - b. Each affected telephone number;
 - c. The date the Subscriber requested the Unauthorized Charge be removed from the Customer's bill, and
 - d. The date the Customer was refunded or credited the amount that the Customer paid for any Unauthorized Charge.
- B.** After a charge is removed from the Customer's bill, the Telecommunications Company shall not rebill the charge unless one of the following occurs:
1. The Subscriber and the Telecommunications Company agree the customer was accurately billed.
- B.** After a Subscriber notifies the Telecommunications Company responsible for providing the unauthorized product or service, the Telecommunications Company shall take all actions within its control to cease charging the Subscriber for the unauthorized product or service must refund to the Customer any amount paid for Unauthorized Charges as promptly as reasonable business practices will permit, but no later than 15 days from business practices will permit.
- C.** If a Telecommunications Company has been notified that an Unauthorized Charge has occurred and the Telecommunications Company cannot verify within 30 days that the charge was authorized pursuant to R14-2-2003, then with respect to liability and absolution of charges among the Subscriber, the Telecommunications Company providing the product or service and the billing agent, the Federal Communications Commission regulations shall apply (i.e. 47 C.F.R. § 64.1140-§ 64.1170). The parties may agree to act in accordance with other dispute resolution practices (including refund by a billing Telecommunications Company under a theory of customer satisfaction or the like) in lieu of the foregoing requirements.
- D.** 2. The Until the Telecommunications Company certifies with supporting documentation to the Subscriber that the charge was authorized pursuant to R14-2-2005:2003, the billing Until a charge is reinstated pursuant to subsection B, a Telecommunications Company shall not: suspend Suspend, disconnect, or terminate telecommunications service to a Subscriber who disputes any billing charge pursuant to this Article or for nonpayment of an alleged Unauthorized Charge; or this Section.
3. A determination is made pursuant to R14-2-2008 that the charge was authorized.
- C.** Until a charge is reinstated pursuant to subsection B, a Telecommunications Company shall not:
1. Suspend, disconnect, or terminate telecommunications service to a Subscriber who disputes any billing charge pursuant to this Article or for nonpayment of an alleged Unauthorized Charge; or
 2. File an unfavorable credit report against a Customer who has not paid charges that the Subscriber has alleged were unauthorized.

E. ~~D.~~ The ~~Customer~~Subscriber shall remain obligated to pay any charges that are not disputed.

F. The Telecommunications Company shall maintain and preserve individual Subscriber records of Unauthorized Charge complaints for 12 months.

R14-2-2007;2005. Notice of Subscriber Rights

A. A Telecommunications Company shall provide to each of its Subscribers a notice of the Subscriber's rights regarding Unauthorized Charges.

~~B.~~ The notice may be combined with the notice required by R14-2-1908.

B. ~~C.~~ The ~~The~~ Subscriber notice shall include the following:

1. ~~The name, address and toll-free telephone number where a Subscriber can contact the Telecommunications Company;~~

2. ~~A statement that a Telecommunications Company is prohibited from adding products and services to a Customer's account without the Subscriber's authorization;~~

3. ~~A statement that the Telecommunications Company is required to return the service to its original service provisions if an Unauthorized Charge is added to a Customer's account;~~

4. ~~A statement that the Telecommunications Company shall not charge for returning the Customer to their original service provisions;~~

2. ~~5.~~ A statement that the ~~a~~ Telecommunications Company must refund to the Customer any amount paid for Unauthorized Charges as promptly as reasonable business practices will permit, but no later than 15 days from is prohibited from adding products and services to a Customer's account without the Subscriber's authorization; ~~Subscriber's account without the Subscriber's notification~~ authorization;

3. A statement that a Telecommunications Company charging for a product or service without the Subscriber's permission is required to remove all Unauthorized Charges from the Subscriber's account;

4. A statement that a Subscriber must report an Unauthorized Charge within 60 days of receiving a bill including an Unauthorized Charge;

5. A statement that a Subscriber who has been crammed can contact the Telecommunications Company to request that the charges be removed pursuant to R14-2-2004;

6. ~~A statement that a Customer~~ A statement that a Subscriber who has been crammed can report the Unauthorized Charge to the Arizona Corporation Commission;

7. The name, address, web site, and toll-free consumer services telephone number of the Arizona Corporation Commission.

C. ~~D.~~ Distribution, language and timing of notice.

1. A Telecommunications Company shall provide the notice described in this Section to new ~~Customers~~Subscribers at the time service is initiated, and upon a Subscriber's request.

2. The notice may be combined with the notice required by R14-2-1906.

3. ~~2.~~ Each Telecommunications Company that publishes a telephone directory or contract shall arrange for publication of a telephone directory, shall arrange for the ~~its~~ notice to appear in the white pages of its annual ~~a~~ telephone directory.

- ~~4.~~ 3.—A Telecommunications Company with a web site shall display the notice described in this Section on the company's web site.

R14-2-2008-2006. Informal Complaint Process

- A. A Subscriber may file an informal complaint within 90 days of receiving notice of a bill including an Unauthorized Charge, or, thereafter, upon a showing of good cause. The complaint shall be submitted to the Commission Staff in writing, telephonically, or via electronic transmission, and shall include:
1. Complainant's name, address, telephone number;
 2. The ~~names~~ names of the Telecommunications Company that submitted the alleged Unauthorized Charge Companies involved;
 3. The approximate date of the alleged Unauthorized Charge;
 4. A statement of facts, and including documentation, to support the complainant's allegation;
 5. The amount of any disputed charges including the amount already paid; and
 6. The specific relief sought.
- B. The Commission Staff shall:
1. Assist the parties in resolving the informal complaint;
 2. Notify the all Telecommunications Company Companies involved of the alleged Unauthorized Charge;
 3. ~~Require~~ Request that the Telecommunications Company to providing the unauthorized product or service provide an initial response within 5 business days;
 4. ~~Require~~ Request that the Telecommunications Company to providing the alleged unauthorized product or service provide documentation of the Subscriber's new service or product or service request. If such information is not provided to the Staff within 10 business days of the initial Staff notification, Staff shall presume than an Unauthorized Charge occurred;
- C. ~~5.~~ Advise the The Telecommunications Company that it responsible for the alleged unauthorized product or service shall provide Staff with any other additional information requested Staff requests concerning the alleged Unauthorized Charge within 10 20 business days of Staff the Telecommunications Company's receipt of such Staff request;.
- D. ~~6.~~ Conduct If the parties do not resolve the matter, the Staff will conduct a review of the informal complaint and related materials to determine if an Unauthorized Charge has occurred; and, which review shall be completed within 60 days of the Staff's receipt of the informal complaint.
7. Inform the Subscriber and the Telecommunications Company of Staff's findings upon conclusion of its review.
- C. In the event a party is dissatisfied with the Staff resolution, the party may appeal the decision in writing to the Director, Utilities Division, within 10 business days of notification of the resolution. The Director, Utilities Division, shall appoint a Staff arbitrator to hear the appeal.
- E. ~~D.~~ If a party is dissatisfied with Staff arbitrator's decision, the dissatisfied party may Upon Inform the Subscriber and the Telecommunications Company of Staff's findings upon conclusion of its review; Staff shall render a written summary of its findings and recommendation to all parties. Staff's written summary is not binding on

any party. Any party shall have the right to file a formal complaint underwith the Commission pursuant to A.R.S. § 40-246.

~~R14-2-2009.2007.~~ Compliance and Enforcement

- ~~A. A Telecommunications Company shall provide a copy of records related to a Subscriber's request for services or products to Commission Staff upon request.~~
- ~~B. If the Commission finds that a Telecommunications Company is in violation of this Article, the Commission shall order the company to take corrective action as necessary, and the company may be subject to such penalties as are authorized by law. The Commission may sanction a Telecommunications Company in violation of this Article by prohibiting further solicitation of new customers for a specified period, or by revocation of its Certificate of Convenience and Necessity. The Commission may take any other enforcement actions authorized by law.~~
- ~~C. The Commission Staff shall coordinate its enforcement efforts regarding the prosecution of fraudulent, misleading, deceptive, and anti-competitive business practicesalleged cramming violations with the Arizona Attorney General to ensure consistent treatment.~~

~~R14-2-2010.2008.~~ Waivers

- ~~A. The Commission may waive compliance with any provision of this Article upon a finding that such a waiver is in the public interest.~~
- ~~B. A Telecommunications Company may petition the Commission for a waiver of any provision of this Article by filing an application for waiver setting forth with specificity the waiver being sought and the circumstances showing that a waiver is in the public interest.~~

~~R14-2-2011.~~ Severability

~~If any provision of this Article is found to be invalid, it shall be deemed severable from the remainder of this Article and the remaining provisions of this Article shall remain in full force and effect.~~