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December 14, 2001

Docket Control
Arizona Corporation Commission
1200 West Washington
Phoenix, AZ 85007

Re: Slamming Rulemaking: RT-00000J-99-0034

To Whom It May Concern:

Enclosed please find a eleven copies of a letter addressed to Mr. Jim Fisher at the Arizona Corporation Commission containing the comments of Sprint Communications Company L.P. regarding the proposed slamming and cramming rules. Please file these documents in the above-referenced docket.

Thank you for your attention in this regard.

Sincerely,

Eric S. Heath

cc: File

Arizona Corporation Commission

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December 14, 2001

Jim Fisher
Utilities Division
Arizona Corporation Commission
1200 West Washington
Phoenix, AZ 85007

Re: Slamming Rulemaking: RT-00000J-99-0034

Dear Mr. Fisher:

Below please find the comments of Sprint Communications Company L.P. regarding the proposed slamming and cramming rules presented to the Arizona Corporation Commission along with the Staff recommendation at the last open meeting.

Sprint urges the Commission to not adopt the proposed slamming and cramming rules in their present form. As Sprint has stated in its comments filed in this matter, the proposed rules are inconsistent with the federal slamming rules in several respects and also contain language that is vague and confusing thus rendering entire sections potentially unenforceable. While Sprint appreciates the problems caused by slamming and cramming, it believes that an approach closer to that adopted by the Federal Communications Commission at 47 C.F.R. 64.1100 *et seq.* would better serve the Arizona public.

In particular, Sprint urges the Commission to delete Section R14-2-1907 B because its language is unclear and would potentially require unauthorized carriers to undertake actions that are prohibited by federal law. This section requires unauthorized carriers to return slammed subscribers to their original carriers. While Sprint agrees that slammed subscribers should be returned promptly to their carrier of choice, the unauthorized carrier is unable to effectuate this change under federal law. The Federal Communications Commission has ruled that unauthorized carriers are only able to reverse charges on a slammed customers account – they are unable to legally switch the subscriber back to their original carrier.¹ Switching subscribers back to their original carrier can only be undertaken by the subscriber or a carrier with the subscriber's consent.² Absent the deletion of this section, Sprint requests that the Commission

¹ 47 C.F.R. 64.1120.

² *Id.*

endeavor to redraft it so as to specifically set forth each carrier's duty according to the federal regulations.

Also, Sprint requests that the Commission modify Section R14-2-1097 C(2) to shorten the timeframe for the absolution of customer charges from 60 days to 30 days to bring the proposed rule into conformity with timeframe adopted by the FCC. In establishing the 30-day timeframe for absolution, the FCC emphasized that its rules place appropriate incentives on both consumers and carriers . . . encourag[ing] consumers to scrutinize their telephone bills immediately and carefully."³ This change would help minimize the costs carriers incur complying with diverse state slamming timeframes, and facilitate a consistent approach to the absolution of unauthorized charges between the federal and state rules. Sprint notes that the shortening of this timeframe will not harm consumers; the unauthorized carrier remains liable for the reimbursement of all unauthorized charges paid after the 30-day absolution period, as set forth in the federal rules.⁴

The requirement in Section R14-2-1907 C(3) that the unauthorized carrier provide the original carrier with relevant billing records likewise conflicts with the federal rules that require the provision of these billing records only when the subscriber has paid the charges of the unauthorized carrier.

The Commission should also revise Section R14-2-1907 C(4) to be consistent with the federal rules. This proposed rule requires the authorized carrier to refund 150% of any paid charges directly to the slammed subscriber. In contrast, the FCC's guidelines provide that the unauthorized carrier should pay the authorized carrier 150% of the unauthorized charges, of which the authorized carrier must pay the subscriber one-third (or 50%) as a refund or credit. Then, the subscriber can seek a re-rating of unauthorized charges to the extent the re-rated amount would exceed 50% of the unauthorized charges.⁵ Allowing the subscriber to receive a refund of 150% of the paid charges (rather than giving the subscriber a choice between 50% of the unauthorized charges or a re-rating at the authorized carrier's rates) will create an environment with financial incentives to bring slamming complaints to the Commission. Further, the inconsistency between the Arizona and federal rules in this instance will make it impossible for carriers to comply with both sets of regulations, and place carriers in a "Catch-22" situation.

Additionally, Sprint requests the Commission correct the phrasing of the proposed rule, in particular Section R14-2-1908 B(1)-(11), which details the carriers' obligations regarding notifying customers of the slamming rules. Sprint notes that the current draft of the proposed rules regarding notice content is confusing because it reads more like a list of obligations carriers must fulfill rather than a list of information a carrier must

³ See, Corrected Version First Order on Reconsideration, *In the Matter of Implementation of the Subscriber Carrier Selection Changes Provisions of the Telecommunications Act of 1996; Policies and Rules Concerning Unauthorized changes of Consumers Long Distance Carriers*, CC Docket No. 94-129, 15 FCC Rcd 8158 Adopted April 13, 2000, at ¶ 10.

⁴ 47 C.F.R. 64.1170

⁵ 47 C.F.R. 64.1170(c).

convey to a subscriber. Additionally, Sprint requests the Commission correct the phrasing of the proposed rule to permit reference to the slamming rules' citation rather than to the actual text of the rules.

Lastly, Sprint refers the Commission to its comments previously filed in this docket for additional perspective on the proposed rules.

Sincerely,

A handwritten signature in black ink, appearing to read "Eric S. Heath", with a long horizontal flourish extending to the right.

Eric S. Heath

cc: File
Lil Taylor
Mark Koval