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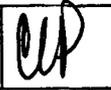
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November 26, 2001

Arizona Corporation Commission

DOCKETED

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DOCKETED BY 

Chairman William A. Mundell
Commissioner Jim Irvin
Commissioner Marc Spitzer
Arizona Corporation Commission
1200 West Washington Street
Phoenix, Arizona 85012

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Re: Proposed Slamming/Cramming Rules ("Proposed Rules")
Docket No. RT 0000J-99-0034
November 27, 2001 Open Meeting

Dear Commissioners:

AT&T Communications of the Mountain States, Inc. ("AT&T") actively participated in the Slamming/Cramming Rules docket and, in recent months, filed comments, attended workshop sessions, and conferred with Staff. The Proposed Rules have improved considerably as a result of Staff's efforts. Staff should be commended for working with interested participants and frequently incorporating changes proposed during the rule-drafting process.

Despite the improvements made by Staff, however, the rules are not yet ready to be delivered to the Secretary of State for public notice and comment. Problems with the Proposed Rules remain and fall generally into three categories. First, some provisions are inconsistent with, or contradict, the federal rules that regulate slamming. Second, some provisions are internally confusing or misleading. Third, some of the Proposed Rules are simply unworkable. If the Proposed Rules are sent on to the Secretary of State, the Commission risks having the rules declared both inconsistent with federal regulations and internally inconsistent. This will further delay promulgation of the Proposed Rules. The examples, which follow, illustrate these general problems.

1. The Proposed Rules Are Inconsistent with the Federal Regulations

In Proposed Rule 14-2-1903, the Commission elects to administer the "Federal Slamming Rules," 47 C.F.R. 64.1100 through 47 C.F.R. 64.1195. Elsewhere, however, the Proposed Rules are inconsistent with the Federal Slamming Rules. For example, 14-2-1907(C)(2) of the Proposed Rules provides that a Telecommunication Company responsible for an unauthorized change must "[a]bsolve the Subscriber of all charges incurred during the first 60 days of service provided by the Unauthorized Carrier if the Subscriber has not paid charges to the Unauthorized Carrier." This same provision is incorporated into the "Notice

of Subscriber Rights.” (R14-2-1908(B)(5)). “Absolve” suggests that the customer will be set free or released from any payment obligation for the calls in question. The very next subsection, however, allows the Authorized Carrier to “bill the Customer for those services at the original Telecommunications Company’s rates.” If given the Notice of Subscriber Rights, an Arizona consumer might, quite understandably, believe that no payment would be due for the calls described in R14-2-1908(C)(2). The Authorized Carrier, however, would be able to bill for those long distance calls – at least all calls not subject to FCC jurisdiction. R14-2-1908(C)(3). Under the Federal Slamming Rules, a customer who has not paid the Unauthorized Carrier is absolved of the unauthorized charges for 30 days. 47 C.F.R. 64.1160. No carrier (Authorized or Unauthorized) can collect payment for calls placed in the 30-day window following the unauthorized change.

In sum, Arizona law gives the customer no “absolution” period, federal law allows a 30-day absolution period, and in Arizona consumers will be billed for some, but not all, long distance calls during first 30 days. Because this will lead to consumer confusion, AT&T asks that the Arizona Corporation Commission instead adopt a credit/absolution system that is consistent with the Federal Slamming Rules. Any different absolution or credit arrangement will create problems for carriers and customers. For national carriers, administering different credit or absolution periods in every state is time-consuming and expensive. Consumers ultimately shoulder these costs. Additionally, Arizona consumers will be confused if intrastate and interstate long distance calls placed immediately following a slamming incident receive different treatment. The Commission should do what it can to simplify and streamline the telephone bills delivered to Arizona consumers. A billing and absolution scheme that is consistent with the Federal Slamming Rules would be a step in that direction.

Similar consistency problems arise with respect to R14-2-1904 (D) (“not to exceed 15 days”), R14-2-1905 (B) (“be a separate document”) and R14-2-1909 (three-way-call option permitted by 47 C.F.R. 64.1190(e)). These sections should also be revised to be consistent with the Federal Slamming Rules. AT&T would be happy to discuss any questions concerning these provisions not made clear in comments already on file with the Commission.

2. Sections Within the Rules Are Internally Confusing or Misleading

Rule 14-2-1907(B)(2) provides that an “[u]nauthorized 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.” As drafted, this provision misleads consumers. The Telecommunications Company submitting an unauthorized change has no power or authority to undo the switch, unless it happens to be Qwest that submitted the unauthorized change. It is the local exchange carrier in Arizona that can return the customer to his or her original Telecommunications Company, not the company submitting the unauthorized change. The Rule implies a promise to the consumer that he or she will be switched back within 5 business days, but then puts the

obligation in the hands of an entity without power to cause the switch. AT&T recommends that the Commission delete this subsection to avoid consumer confusion.

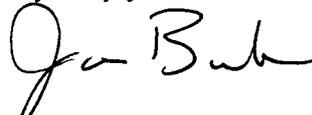
Rule 14-2-1907(D)(1) is similarly confusing. Rule 14-2-1907(D)(1) prohibits the billing Telecommunication Company from suspending, disconnecting or terminating a Subscriber until proof that the switch was authorized (verified pursuant to 1905) is provided. It is difficult to discern the purpose of this rule. If the switch was authorized, why would the billing Telecommunications Company suspend, disconnect or terminate service to the customer? On the other hand, if the switch was unauthorized, the billing Telecommunications Company should be allowed to terminate service to that customer. In other words, a customer should not be entitled to continue using the service (and receive absolution or credit) if he or she alleges the switch was not authorized. The customer is always free to request service from his or her original authorized carrier, or an entirely new carrier. Further, nothing in these rules changes a local service provider's obligation to provide basic local telephone service during a billing dispute. That issue is addressed in R14-2-509. AT&T requests that this section be struck from the Proposed Rules.

3. Unworkable Provisions

R14-2-1908(C) and R14-2-2007(D) require a Telecommunications Company to display the "Notice of Subscriber Rights" on the Company's website. This requirement is not generally workable. Many of the carriers impacted by these rules, like AT&T (www.ATT.com), have customers worldwide and use their websites to interface with customers on issues applicable to *all* customers. The website is not designed to effectively communicate jurisdictionally specific information to customers. The more appropriate place to put (and find) this information is the Arizona Corporation Commission website. AT&T does include, on its website, tips on how a customer can avoid being slammed as well as the phone number for the AT&T slamming resolution center (1-800-538-5345). This allows consumers to request immediate assistance if they believe they have been slammed.

AT&T recommends that the Commissioner's send these Proposed Rules back to Staff for additional comments from interested parties and further refinement. Understandably, this will not bring about complete agreement as to all parts of the rules. Many of the problems identified in this letter, however, can be fixed quickly and easily. Additional time will allow Staff to correct fundamental problems that will, if not corrected now, ultimately delay promulgation of these Proposed Rules.

Very truly yours,



Joan S. Burke

JSB:adg