



0000083914

ORIGINAL OPEN MEETING AGENDA ITEM

RECEIVED  AT&T

Patrick A. Clisham
Arizona State Director

2003 DEC 18 A 9:46

320 E. Broadmoor Court
Phoenix, AZ 85022
602 315-5312
FAX 303 294-7337
clisham@att.com

AZ CORP. COM. DECISION
DOCKETED

December 18, 2003

VIA HAND DELIVERY

Chairman Marc Spitzer
Commissioner William Mundell
Commissioner Jeff Hatch-Miller
Commissioner Mike Gleason
Commissioner Kristin Mayes
Arizona Corporation Commission
1200 West Washington
Phoenix, Arizona 85007

Arizona Corporation Commission
DOCKETED

DEC 18 2003

DOCKETED BY 

Re: Consumer Protection Rules
Docket No. RT-00000J-99-0034

Dear Commissioners:

I understand that the Commission Staff may soon prepare an edited version of the Consumer Protection rules approved by Commission Decision No. 65452. Given that these rules must be revised to resolve concerns raised by the Arizona Attorney General, AT&T would like to propose three additional revisions.

To be sure, AT&T appreciates that these rules have already been the focus of many meetings and workshops and have been amended and revised numerous times. During the pendency of this rule making, AT&T filed testimony, submitted comments, attended numerous workshops and publicly expressed its support for the Commission's efforts.

The changes outlined below will substantially reduce the cost of carrier compliance, minimize the burdens place on Staff and retain the important consumer protection benefits sought by the Commission. These revisions are small in scope and make sense for carriers, consumers and the Commission. AT&T does not believe that these suggested changes, taken individually or collectively, cause the rules to be substantially different from the proposed rules contained in the notice of proposed rulemaking. Thus, even if the rules are revised as suggested the rules would not need to be the subject of a new notice of proposed rulemaking. The suggestions are as follows:

1. Extension of the Time Within Which Carriers can Respond

Chairman Marc Spitzer
Commissioner William Mundell
Commissioner Jeff Hatch-Miller
Commissioner Mike Gleason
Commissioner Kristin Mayes
Arizona Corporation Commission
Page 2
December 10, 2003

to an Alleged Unauthorized Change in Service Provider

As it is currently drafted, Rule 1907(C) specifies that a change in provider is automatically deemed unauthorized if the Company cannot respond within five days. The absolution, reimbursement, and refund requirements become immediately effective if the Company cannot produce a letter of authorization ("LOA") within five business days. AT&T is concerned that in the majority of cases, five days is simply too little time to investigate an unauthorized change in provider. Such an investigation will *always* require coordination between at least two telephone companies, and may involve obtaining an LOA from a marketing affiliate (for example an airline mileage program or a wireless company). Further, the LOA may need to be requested and obtained from a sales contractor. To investigate the alleged slam, one or more of these parties will need to retrieve a document from off-site storage or computer back-up files. For these reasons, the steps generally required to retrieve a specific LOA frequently require more than five business days to complete. Notably, even the Commission's cramming rules – which prohibit conduct involving a single Company – give the Company two billing cycles to remove an unauthorized charge from a customer account.

AT&T therefore asks that the Commission consider amending Rule 1907(C) as follows:

If a Telecommunications Company has been notified that an Unauthorized Change has occurred ~~and~~ the Telecommunications Company shall respond to the Commission representative within 5 working days as to the status of the Company investigation of the Unauthorized Change. If the Telecommunications Company cannot verify within 5 15 business days that the change was authorized pursuant to R14-2-1905, the Unauthorized Carrier shall: . . .

AT&T believes that this revision will bring the slamming rules closer in line with the cramming rules and give carriers a more reasonable timeline for compliance. Furthermore, the additional days will in no way limit the carriers liability to the customer.

2. Marketing Script Requirement

Rules 14-2-1914 and 14-2-1202 require all Telecommunications Companies to submit to the Commission "all scripts used by its (or its agent's) sales or customer service workers." Under these rules, every telephone carrier must submit scripts to the Commission – whether or not the Commission has received a complaint alleging wrongdoing or consumer confusion. Furthermore, the requirement is not limited to telemarketing scripts, but includes "all scripts that involve an offer to sell a product or service." R14-2-2012. AT&T opposes this requirement because it unnecessarily increases the cost of providing service in Arizona without providing a benefit to consumers. Telecommunication companies today have limited resources and

Chairman Marc Spitzer
Commissioner William Mundell
Commissioner Jeff Hatch-Miller
Commissioner Mike Gleason
Commissioner Kristin Mayes
Arizona Corporation Commission
Page 3
December 10, 2003

extraordinarily tight budgets. Given this climate, it will be difficult to dedicate employees in every AT&T business unit to the task of gathering scripts, ferreting out variations in scripts, arranging for the submission of scripts under seal, monitoring the scripts going forward for any material change, and filing periodic updates when material changes are made. Moreover, the burden of monitoring and organizing the endless stream of scripts and revised scripts will weigh heavily on the Commission, as well.

The extra costs and burdens are not justified in the absence of some indication that a serious problem exists, or that a consumer has been misled or inconvenienced. The dollars used by AT&T (and other carriers) to manage this work could be better spent improving processes and lowering the cost of service to customers.

As mentioned in prior comments, AT&T is, of course, prepared to submit to the Commission, under seal, all relevant marketing scripts in the course of any complaint proceeding. But for the reasons specified above, AT&T respectfully asks that the Commission strike the blanket script submission requirement set forth in R14-2-1914 and 14-2-1202 from the rules.

3. Remove Sentence of Pre-Subscribed Interexchange Carrier Freeze Rule That Conflicts With Federal Regulation

“PIC” stands for “pre-subscribed interexchange carrier.” A “PIC freeze” is the term used for “freezing” your PIC, meaning ensuring that your long distance carrier cannot be changed without your permission. A customer can request a PIC freeze from his or her local phone carrier. Once the freeze is in place, the customer will need a password, known only to the customer, to change the assigned long distance carrier.

A federal regulation provides that a customer may call his or her local service provider and request, or lift, a PIC freeze without any type of verification.¹ This regulation effectuates the

¹ The federal regulation on point provides as follows:

(e) *Procedures for lifting preferred carrier freezes.* All local exchange carriers who offer preferred carrier freezes must, at a minimum, offer subscribers the following procedures for lifting a preferred carrier freeze:

(1) A local exchange carrier administering a preferred carriers freeze must accept a subscriber’s written or electronically signed authorization stating his or her intent to lift a preferred carrier freeze; and

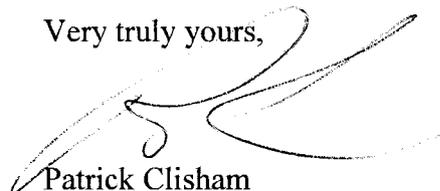
Chairman Marc Spitzer
Commissioner William Mundell
Commissioner Jeff Hatch-Miller
Commissioner Mike Gleason
Commissioner Kristin Mayes
Arizona Corporation Commission
Page 4
December 10, 2003

FCC's judgment that consumers should have ready access to systems that protect their choices. Under proposed Arizona rule 14-2-1909(D), however, a customer cannot remove a freeze through a verbal authorization alone. Instead, that request must be verified pursuant to R14-2-1905, which requires written authorization, third party verification, or separate electronic or voice-recorded authorization. The Arizona verification requirement gives the consumer less autonomy than, and conflicts with, the federal regulation.

The conflict can be easily corrected through deletion of the first sentence of Rule 14-2-1909(D), which provides that 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."

Thank you for considering these revisions. I understand this has been a long process that has required the Commission to consider an array of different viewpoints. AT&T's corporate commitment to comply with both the letter and spirit of all applicable state rules and regulations, however, leads me to ask that the draft rules be revised slightly, in the interest of more efficiently and effectively addressing the concerns at which the rules directed.

Very truly yours,



Patrick Clisham

CC: Service List . RT-00000J-99-0034
Docket Control

(2) A local exchange carrier administering a preferred carrier freeze must accept a subscriber's oral authorization stating her or his intent to lift a preferred carrier freeze and must offer a mechanism that allows a submitting carrier to conduct a three-way conference call with the carrier administering the freeze and the subscriber in order to lift a freeze.

47 C.F.R. 64.1190(e)(2) (emphasis added).