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Arizona Corporation Commission
DOCKETED
SEP 13 2012

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Via Overnight Delivery

September 12, 2012

Docket Control Center
Arizona Corporation Commission
1200 W. Washington Street, Room 108
Phoenix, Arizona 85007-2996

Re: Staff's Third Set of Data Requests to Preferred Long Distance, Inc., Docket No. T-04308A-12-0118

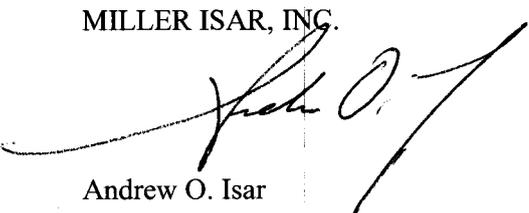
Dear Sir/Madam:

Pursuant to Staff's August 8, 2012 Third Set of Data Requests in the above-referenced matter, Preferred Long Distance, Inc. ("Preferred" or the "Company"), provides the attached responses. Preferred's responses are timely filed following a ten day response period extension, until September 17, 2012, granted by staff. An original and thirteen (13) copies of this letter and attachments are enclosed.

Please acknowledge receipt of this filing by file-stamping and returning the additional copy of this Application and transmittal letter in the self-addressed, postage-paid envelope provided for this purpose. Questions may be directed to the undersigned.

Sincerely,

MILLER ISAR, INC.


Andrew O. Isar

Attachments

Regulatory Consultants to
Preferred Long Distance, Inc.

cc: Ms. Pam Genung via electronic delivery (PGenung@azcc.gov)

STAFF'S THIRD SET OF DATA REQUESTS TO
PREFERRED LONG DISTANCE, INC.
DOCKET NO. T-04308A-12-0118

Each of the following responses was prepared by:

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Regulatory Consultants to
Preferred Long Distance, Inc. ("Preferred")

PJG 1.1 Most recently, the Federal Communications Commission ("FCC") has issued Orders addressing several slamming complaints filed against Preferred Long Distance. Please provide the following information related to the complaints addressed in the FCC Orders listed below 1.) an explanation for these slamming complaints; 2.) the total monetary penalty imposed on Preferred Long Distance related to these complaints:

Response: Preferred Long Distance, Inc. ("PLD") has, since beginning operations in 1995, provided local exchange and interexchange services to thousands of subscribers throughout its authorized operating territories. In each instance, PLD has verified each account transfer through use of an independent third party verification ("TPV") pursuant to 47 C.F.R. §64.1120(c)(3), and has taken great care to monitor all verifications through a rigorous live verification process, including a callback procedure not required by any regulation, and separately communicates with all new subscribers following their subscription with a Quality Control or Welcome Call and Welcome and Confirmation letter.

The recent FCC Orders, addressed in detail below and in the attached spreadsheet, are in several cases unfounded (DAs 12-1241, 12-1242, and 12-1255), were mis-categorized as slamming complaints (DA 12-1242 and 12-1255), or entail interpretive matters that the Orders now clarify (DAs 1253, 1254 and 1255). In no instance do these citations suggest that the Company intentionally transferred accounts without authorization, or otherwise mislead subscribers. Rather, these complaints are based on technical interpretations which Preferred has subsequently corrected. The citations constitute an exceptionally negligible percentage of the total number of

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successful account transfers PLD performs each year, and are believed consistent with the number of citations typically received by virtually all local exchange and interexchange carriers.

PLD acknowledges the FCC's stated interpretation of information to be given to prospective subscribers when transfers are verified, and has made immediate changes in the information provided to prospective subscribers and applicable operations. Yet PLD also maintains that these citations do not reflect the Company's commitment to, and successful provision of, responsible, reliable, and compliant telecommunications services to the public.

The FCC's findings in paragraph 4 of each Order are replicated below with Preferred's discussion. A summary of each complaint, and the financial total monetary penalty associated with the complaint, where applicable, appears in the attached spreadsheet.

- a. FCC, DA 12-1254, Released August 3, 2012, *In the Matter of Preferred Long Distance, Inc. Complaints Regarding Unauthorized Change of Subscriber's Telecommunications Carrier* (addresses a total of 21 complaints, 1 filed in 2010, 10 filed in 2011, and 10 filed in 2012); and
- d. FCC, DA 12-1253, Released August 3, 2012, *In the Matter of Preferred Long Distance, Inc. Complaints Regarding Unauthorized Change of Subscriber's Telecommunications Carrier* (addresses 2 complaints filed in 2011); and

Response: According to the FCC Orders,

PLD states that authorizations were received and confirmed through third party verifications (TPVs). We have reviewed the TPVs that PLD submitted with its response. In each case, during the course of the TPV, the verifier recited a telephone number presumably associated with the business. However, our rules require that the TPV specifically elicit the "telephone numbers to be switched," rather than merely verifying numbers associated with a business or residence, or for what purpose the numbers are used.¹

In pertinent part, Section 64.1120(C)(iii), Requirements for content and format of third party verification, states, "Any description of the carrier change transaction by a third party verifier must not be misleading, and all third party verification methods shall elicit, at a minimum... the telephone numbers to be switched..." The FCC's Orders make clear that "the telephone numbers to be switched" means each telephone number associated with the switched account. PLD has amended its TPV

¹

See 47 C.F.R. § 64.1120 (c)(3)(iii).

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script to now capture each telephone number associated with a prospective account transfer, in these two instances, the Company subsequently determined that it had not ascertained all of the telephone numbers associated with the account at the time of verification but afterward.²

Customer Proprietary Network Information restrictions set forth in 47 C.F.R. §§64.2011 *et seq.* and Section 64.2005 specifically, have in limited instances made it difficult for the Company to obtain *every* telephone number associated with a commercial account at the time of verification. In other instances, the individual authorized to make the election to transfer accounts does not have the listing of all telephone numbers available, requiring after the fact verification.

In light of the foregoing, PLD has changed its procedures to obtain full account information from the customer during initial contact up to and including telephone bills in all cases, that are then used in making the TPV.

- b. FCC, DA 12-1255, Released August 3, 2012, *In the Matter of Preferred Long Distance, Inc. Complaints Regarding Unauthorized Change of Subscriber's Telecommunications Carrier* (addresses a total of 6 complaints, 2 filed in 2010, 3 filed in 2011, and 1 filed in 2012); and

Response: According to the FCC Order,

We have reviewed the TPVs PLD filed with its responses, and we find that, in each case, PLD's verifier failed to obtain separate authorization for each service being sold, as required by our rules.³ We find that PLD has failed to produce clear and convincing evidence of a valid authorized carrier change by Complainant.⁴ Therefore, we find that PLD's actions did result in an unauthorized change in Complainant's telecommunications service and we discuss PLD's liability below.⁵

Pursuant to Section 64.1120(b) of the FCC's rules, 47 C.F.R. § 64.1120(b), "Where a telecommunications carrier is selling more than one type of telecommunications service (e.g., local exchange, intraLATA toll, and interLATA toll), **that carrier must obtain separate authorization from the subscriber for each service sold,**

² The failing came to light because the subscribers elected to switch back to their former providers and became disgruntled by the time it took PLD and the former provider to transfer the account back, giving rise to the complaint.

³ See 47 C.F.R. § 64.1120(c)(3)(iii).

⁴ See 47 C.F.R. § 64.1150(d).

⁵ If such Complainant is unsatisfied with the resolution of this complaint, such Complainant may file a formal complaint with the Commission pursuant to Section 1.721 of the Commission's rules, 47 C.F.R. § 1.721. Such filing will be deemed to relate back to the filing date of such Complainant's informal complaint so long as the formal complaint is filed within 45 days from the date this order is mailed or delivered electronically to such Complainant. See 47 C.F.R. § 1.719.

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although the authorizations may be obtained within the same solicitation. Each authorization must be verified separately from any other authorizations obtained in the same solicitation. Each authorization must be verified in accordance with the verification procedures prescribed in this part [emphasis supplied].” In this instance, PLD had verified the subscriber’s local exchange service in one question and their local toll and in-state and state to state long distance service and international service in another question. PLD thought it was compliant by asking for each service and obtaining separate authorizations for local service and then another for interexchange service. PLD has since amended its scripting policies by specifically verifying election of each service separately to ensure compliance. No change in Company procedures is warranted because the change in procedures was addressed in April, 2012.

- c. FCC, DA 12-1242, Released August 2, 2012, *In the Matter of Preferred Long Distance, Inc. Complaints Regarding Unauthorized Change of Subscriber’s Telecommunications Carrier* (addresses 4 complaints filed in 2011); and

Response: According to the Order, “PLD has not submitted third party verifications or letters of agency, as required by our rules.⁶ We find that PLD has failed to produce clear and convincing evidence that Complainants authorized a carrier change.⁷” PLD has carefully reviewed its mail log and found no record of receipt of this FCC inquiry as a slamming complaint. The Company made an inquiry with the Commission and determined that the complaints had pertained to cramming allegations, that did not require a TPV. It is unclear why the Commission subsequently re-classified the complaints as slamming and concluded that insufficient evidence had been provided in the absence of a TPV.

- d. FCC, DA 12-1241, Released August 2, 2012, *In the Matter of Preferred Long Distance, Inc. Complaint Regarding Unauthorized Change of Subscriber’s Telecommunications Carrier* (addresses 1 complaint filed in 2012).

Response: According to the FCC’s Order, “PLD states that authorization was obtained by third party verification (TPV). We have reviewed the TPV that PLD submitted with its response. We find that PLD’s verifier, however, failed to confirm authorization regarding the switch of interLATA service, as required by our rules.⁸” This complaint involved the transfer of local service only. No interLATA service was involved in the transfer, which is why no mention was made of interLATA account transfers in the TPV.

⁶See 47 C.F.R § 64.1120-64.1130.

⁷See 47 C.F.R. § 64.1150(d).

⁸ See 47 C.F.R § 64.1120(c)(3)(iii).

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PJG 1.2 Please identify any other pending complaints filed against Preferred Long Distance at the FCC which have not yet been addressed by the FCC.

Response: On July 16, 2012 PLD responded to 12-S3435878. Also, PLD will be responding to 12-S003465; 12-S3454906; 12-S003483; 12-S003459. PLD recognizes the TPV's for these accounts do not meet the technical expectations of the rules since they were conducted prior to amendment of the Company's verification procedures.

PJG 1.3 Please provide any actions or changes in operations that Preferred Long Distance intends to put in place to alleviate the number of slamming complaints it has been receiving at the federal level.

Response: As noted above, the federal complaints not otherwise misclassified or inaccurate as to the Company's compliance have focused on the clarity of the TPVs with regard to telephone numbers being transferred and the nature of services which are to be provided by PLD. Though slamming complaints have constituted isolated occurrences, the recent spate of FCC orders dating back to 2010 has caused the Company to review its TPV and associated practices governing collection of all telephone numbers in all instances before the TPV is conducted to make amendments in these practices. The Company has adopted changes in both to maintain the strictest compliance with FCC rules. Scripts have been amended to ensure compliance. Additional processes have been put in place to avoid transferring service for any telephone number that is not explicitly verified accurately. And measures have been addressed with Customer Service supervisors and staff to accommodate customers where they are disputing the transfer of service, including playing the TPV recording as soon as it is available and investigating the true nature of the complaint.

ORDER#	IC NO.	ACCT#	DID CUSTOMER PAY	IF PAID HOW MUCH	COMMENTS
DA 12-1241	12-S3353245	I - 73257	N	\$ -	CLAIMS WE FAILED TO ASK INTERLATA SERVICE BUT WE NEVER PROVIDED INTERLATA SERVICE B/C IT WAS A LOCAL ONLY CUSTOMER
DA 12-1242	11-S3106034	I - 63890	Y	\$ 285.29	WE DIDN'T GET A SLAMMING COMPLAINT WITH THIS IC#. THE COMPLAINT WE RECEIVED WAS A CRAMMING COMPLAINT 11-C00281819-1, WHICH DOESN'T REQUIRE A TPV BE PROVIDED
DA 12-1242	11S3218877	I - 72515	Y	\$ 99.17	WE DIDN'T GET A SLAMMING COMPLAINT WITH THIS IC#. THE COMPLAINT WE RECEIVED WAS A CRAMMING COMPLAINT 11-C00320409-1, WHICH DOESN'T REQUIRE A TPV BE PROVIDED
DA 12-1242	11S3247492	I - 74652	Y	\$ 176.88	WE DIDN'T BELIEVE IT WAS REQUIRED B/C WE SETTLED THE MATTER WITH THE CUSTOMER AND APPLIED CREDITS TO THEIR ACCOUNT; ALSO, THE NATURE OF THEIR CLAIM DID NOT INVOLVE SLAMMING BUT WAS SIMPLY UPSET B/C WE TURNED OUT TO BE HIGHER THAN THEIR PREVIOUS CARRIER
DA 12-1242	11S3259759	I - 76220	N	\$ -	WE DIDN'T BELIEVE A TPV WAS NECESSARY IN SUPPORT OF OUR POSITION. THE NATURE OF THE COMPLAINT REVOLVED AROUND A DISPUTE OF PORT OUT DATES AND THEN TAKING BACK THE LINES, SINCE NONE OF THESE FACTS WERE ACCURATE WE DID NOT BELIEVE A TPV WAS NECESSARY AND NONE WAS AVAILABLE B/C WE NEVER TOOK BACK THE LINES AS ALLEGED. THE INITIAL SWITCH WAS NEVER IN QSTN. WE THOUGHT WE WERE COMPLAINT BY ASKING EACH SERVICE ALTHOUGH ONLY AS TWO QUESTIONS, 1 FOR LOCAL AND 1 FOR LONG DISTANCE. AS OF APRIL, 2012 WE HAVE IMPLEMENTED SEPARATE QUESTIONS FOR EACH SERVICE
DA 12-1255	10-R2658295S	I - 57654	N	\$ -	QSTN. WE THOUGHT WE WERE COMPLAINT BY ASKING EACH SERVICE, ALTHOUGH ONLY AS TWO QUESTIONS, 1 FOR LOCAL AND 1 FOR LONG DISTANCE. AS OF APRIL, 2012 WE HAVE IMPLEMENTED SEPARATE QUESTIONS FOR EACH SERVICE
DA 12-1255	10-S2726918	I - 55877	Y	\$ 114.26	QSTN. WE THOUGHT WE WERE COMPLAINT BY ASKING EACH SERVICE, ALTHOUGH ONLY AS TWO QUESTIONS, 1 FOR LOCAL AND 1 FOR LONG DISTANCE. AS OF APRIL, 2012 WE HAVE IMPLEMENTED SEPARATE QUESTIONS FOR EACH SERVICE
DA 12-1255	11-S3134372	I - 68892	N	\$ -	QSTN. WE THOUGHT WE WERE COMPLAINT BY ASKING EACH SERVICE, ALTHOUGH ONLY AS TWO QUESTIONS, 1 FOR LOCAL AND 1 FOR LONG DISTANCE. AS OF APRIL, 2012 WE HAVE IMPLEMENTED SEPARATE QUESTIONS FOR EACH SERVICE
DA 12-1255	11-S3150573	I - 71308	N	\$ -	QSTN. WE THOUGHT WE WERE COMPLAINT BY ASKING EACH SERVICE, ALTHOUGH ONLY AS TWO QUESTIONS, 1 FOR LOCAL AND 1 FOR LONG DISTANCE. AS OF APRIL, 2012 WE HAVE IMPLEMENTED SEPARATE QUESTIONS FOR EACH SERVICE
DA 12-1255	11-S3218915	I - 72817	Y	\$ 403.82	WE FAILED TO ASK EACH SERVICE AS A SEPARATE QSTN BUT THIS WAS NOT SENT TO US AS A SLAMMING COMPLAINT UNDER THIS IC NO., IT WAS SENT AS A CRAMMING COMPLAINT WITH IC NO. 11-C00317631-1 WHICH DOES NOT REQUIRE A TPV BE SENT WITH IT AND WE DIDN'T SEND ONE WITH THIS RESPOSNE

DA 12-1255	12-S3353014	I - 83371	Y	\$	115.59	WE FAILED TO ASK EACH SERVICE AS A SEPARATE QSTN. WE THOUGHT WE WERE COMPLAINT BY ASKING EACH SERVICE, ALTHOUGH ONLY AS TWO QUESTIONS, 1 FOR LOCAL AND 1 FOR LONG DISTANCE. AS OF APRIL, 2012 WE HAVE IMPLEMENTED SEPARATE QUESTIONS FOR EACH SERVICE
DA 12-1253	11-S3114711	P - 162456	Y	\$	269.52	WE FAILED TO STATE EACH NUMBER SEPARATELY WE FAILED TO STATE EACH NUMBER SEPARATELY BUT WE NEVER SUBMITTED ANY TPV ON THIS RESPONSE B/C WE DID NOT RECEIVE A SLAMMING COMPLAINT WITH THIS IC NO. WE RECEIVED A CRAMMING COMPLAINT WITH IC NO 11-C00319601-1, WHICH DOES NOT REQUIRE A TPV BE SUBMITTED
DA 12-1253	11-S3218818	I - 74135	Y	\$	137.23	
						UNKNOWN B/C CUSTOMER WAS ON US OVER 2 YEARS AGO AND USAGE RECORDS HAVE BEEN PURGED. BUT CUSTOMER WAS ONLY ON US FOR 19 DAYS
DA 12-1254	10-S2749689	P - 155922		\$	-	WE FAILED TO STATE EACH NUMBER SEPARATELY. THIS WAS NOT SENT TO US AS A SLAMMING COMPLAINT UNDER THIS IC NO., IT WAS SENT AS A CRAMMING COMPLAINT IC NO. 10-C00238666-1
DA 12-1254	11-S003135	P - 163303	Y		204.65	WE FAILED TO STATE EACH NUMBER SEPARATELY WE FAILED TO STATE EACH NUMBER SEPARATELY BUT WE SHOULD NOT HAVE BEEN SENT THIS COMPLAINT B/C THE COMPLAINT WAS FOR THEIR ILLINOIS LOCATION WHICH WE NEVER PROVIDED SERVICE FOR, NOT THE N.M. LOCATION, WHICH WAS NEVER IN DISPUTE
DA 12-1254	11-S003178	I - 71991	N	\$	-	
DA 12-1254	11-S3105915	I - 64462	N	\$	-	WE FAILED TO ASK EACH SERVICE AS A SEPARATE QSTN, BUT WE NEVER SUBMITTED ANY TPV ON THIS RESPONSE B/C WE DID NOT RECEIVE A SLAMMING COMPLAINT WITH THIS IC NO. WE RECEIVED A CRAMMING COMPLAINT WITH IC NO. 11-C00279651-1 WHICH DOES NOT REQUIRE A TPV BE SUBMITTED
DA 12-1254	11-S3197859	P - 16133	Y	\$	201.68	WE FAILED TO ASK EACH NUMBER SEPARATELY. THE CUSTOMER WAS NEVER COMPLAINING ABOUT OUR LD CHARGES, SHE WAS COMPLAINING ABOUT CHARGES FROM SILV COMMUNICATIONS.
DA 12-1254	11-S3218846	P - 169274	Y	\$	100.80	WE FAILED TO ASK EACH NUMBER SEPARATELY, BUT THIS WAS NOT A SLAMMING COMPLAINT WITH THIS IC NO., BUT A CRAMMING COMPLAINT WITH IC NO 11-C00320260-1. WE DID NOT PROVIDE A TPV WITH OUR RESPONSE
DA 12-1254	11-S3218864	P - 162464	Y	\$	202.07	WE FAILED TO ASK EACH NUMBER SEPARATELY, BUT THIS WAS NOT A SLAMMING COMPLAINT WITH THIS IC NO., BUT A CRAMMING COMPLAINT WITH IC NO 11-C00321996. WE DID NOT PROVIDE A TPV WITH OUR RESPONSE

						WE FAILED TO ASK EACH NUMBER SEPARATELY, BUT THIS WAS NOT A SLAMMING COMPLAINT WITH THIS IC NO., BUT A CRAMMING COMPLAINT WITH IC NO 11-C00320128-1. WE DID NOT PROVIDE A TPV WITH OUR RESPONSE
DA 12-1254	11-S3218890	P - 165643	Y	\$	178.15	
DA 12-1254	11-S3227030	P - 173125	Y	\$	106.47	WE FAILED TO STATE EACH NUMBER SEPARATELY SAYS WE FAILED TO STATE EACH NUMBER SEPARATELY, BUT WE ONLY SWITCHED THE ONE NUMBER STATED THAT THE CUSTOMER HAD SAYS WE FAILED TO STATE EACH NUMBER SEPARATELY, BUT CUSTOMER ONLY HAS 1 NUMBER & IT WAS STATED IN TPV, PLUS HE LATER SIGNED AN LOA CONTRACT & IS STILL ACTIVE
DA 12-1254	11-S3286476	I - 79311	N	\$	-	
DA 12-1254	11-S3287268	I - 78236	Y	\$	727.59	
DA 12-1254	12-S003307	I - 82109	Y	\$	260.00	WE FAILED TO STATE EACH NUMBER SEPARATELY
DA 12-1254	12-S003308	I - 81571	Y	\$	353.73	WE FAILED TO STATE EACH NUMBER SEPARATELY
DA 12-1254	12-S3309576	I - 79731	N	\$	-	WE FAILED TO STATE EACH NUMBER SEPARATELY WE FAILED TO STATE EACH NUMBER SEPARATELY, BUT THEY ONLY HAVE ONE NUMBER AND WE AUTHORIZED IT IN TPV
DA 12-1254	12-S3321288	I - 82826	Y	\$	35.00	WE FAILED TO STATE EACH NUMBER SEPARATELY, BUT THEY ONLY HAVE ONE NUMBER AND WE AUTHORIZED IT IN TPV
DA 12-1254	12-S3327086	P - 17056	Y	\$	323.99	AUTHORIZED IT IN TPV
DA 12-1254	12-S3334393	I - 81518	Y	\$	313.52	WE FAILED TO STATE EACH NUMBER SEPARATELY
DA 12-1254	12-S3373425	I - 84597	Y	\$	616.27	WE FAILED TO STATE EACH NUMBER SEPARATELY
DA 12-1254	12-S3399206	I - 84119	N	\$	-	WE FAILED TO STATE EACH NUMBER SEPARATELY
DA 12-1254	12-S3409767	I - 83060	N	\$	-	WE FAILED TO STATE EACH NUMBER SEPARATELY
DA 12-1254	12-S3413396	I - 86916	Y	\$	267.30	WE FAILED TO STATE EACH NUMBER SEPARATELY
				\$	5,492.98	