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November 13, 1998

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

Ms. Magalie Salas
Secretary
Federal Communications Commission
1919 M Street, N.W., Room 222
Washington, D.C. 20554

**re: In the Matter of Truth-in-Billing and Billing Format
CC Docket No. 98-170**

Dear Secretary Salas:

Please find the original and four copies of the Initial Comments of the Missouri Public Utilities Commission in this matter. This pleading is also being supplied to Anita Cheng and ITS on a 3.5 inch diskette formatted in Word Perfect 5.1 for Windows, as well as in hard copy to Judy Boley and Timothy Fain. Please also find an extra copy that I ask you to stamp as filed and return to the messenger for our records.

Do not hesitate to call if I can be of assistance.

Yours truly,

**BIRCH, HORTON, BITTNER
AND CHEROT**

Elisabeth H. Ross

Elisabeth H. Ross

Enclosures

cc: Anita Cheng
Judy Boley
Timothy Fain
ITS

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BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
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NOV 13 1998

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of
Truth-in-Billing
and
Billing Format

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CC Docket No. 98-170

INITIAL COMMENTS OF THE
MISSOURI PUBLIC SERVICE COMMISSION

In the Notice of Proposed Rulemaking ("NPRM"), released September 17, 1998, the Federal Communications Commission (the "FCC") requested comments on a number of issues concerning billing formats and truth-in-billing. The Missouri Public Service Commission ("MoPSC") commends the FCC for addressing the issues relating to billing formats and truth-in-billing in the telecommunications market of today. The FCC clearly recognizes the varying concerns of consumers, the National Association of Regulatory Utility Commissioners ("NARUC"), the National Association of State Utility Consumer Advocates ("NASUCA"), the National Consumers League ("NCL"), members of Congress, and indeed, the industry itself.

The NPRM advances a number of ideas aimed at solutions to the problems of inaccurate, deceptive, and/or unclear charges and information on telephone bills. In doing so, the NPRM is guided by the following three (3) basic principles:

1. Telephone bills should contain important information, and be organized so that the consumer can easily understand the information given;
2. Telephone bills should contain complete descriptions in clear and concise terms for all charges, as well as information identifying the provider(s) of all services; and

3. Telephone bills should clearly and conspicuously disclose all information necessary for consumers to ask questions or lodge complaints about any charge appearing on the bill.

The NPRM, in addition to eliciting comments on the proposals outlined by the FCC, also urges commentors to bring forth other proposals. The FCC also requests comments on whether it has jurisdiction to adopt each of the proposals contained in the NPRM or any additional proposals raised on the record in this proceeding. The MoPSC's comments herein presented are structured to respond to: a) the jurisdictional issue, b) the proposals contained in the NPRM, and c) other proposals that would further protect consumers from fraudulent or deceptive billing practices.

FCC JURISDICTION

The appropriate course to be taken by the FCC would be to develop a national set of guidelines regarding billing practices and standards, and to encourage the states to adopt these guidelines. The MoPSC recommends that these guidelines be non-binding and represent *minimum* standards. Accordingly, the states will retain the authority to mandate additional billing practices furthering the protection of consumers, as long as such additional practices do not conflict with the FCC guidelines. The MoPSC has long maintained that each individual state is in the best position to determine, based on its own public policy standards and information from its consumers, what additional practices are appropriate for state-specific consumer protection.

NPRM PROPOSALS

The MoPSC does not oppose any of the proposals contained in the NPRM, but offers the following comments regarding the various proposals.

Organization of the Bill

Telephone bills would be better organized if charges for separate categories of services (local, long distance and miscellaneous) were in separate sections. Such a visual separation would enhance the consumer's ability to distinguish between different services and service providers. A summary page including a separate section with a contact number for each provider and a description of the services furnished, the amount charged for each service, and a total due to each individual provider would assist the consumer in reviewing the consumer's telephone bill and in being able to identify the appropriate contact for questions.

Additionally, a section of the summary page should show the current status of the consumer's service in layman's terms. This would help the consumer immediately identify the local exchange provider, presubscribed long distance provider, and other service providers. Another section of a summary page should describe any changes in the consumer's service since the last bill, thus helping to alert the consumer to any unfamiliar activity.

Descriptions of Services and Identification of Providers

The MoPSC strongly supports the proposal that each service provider be clearly and conspicuously identified in association with that entity's charges. The listing of the name of the billing aggregator or clearinghouse alone is not sufficient. Furthermore, the MoPSC strongly supports the listing of the name of the reseller of telecommunications services because that reseller can establish rates different from those of the underlying facilities-based telecommunications provider. The MoPSC's Consumer Services Department has received *Slamming* complaints that often have their genesis in the misrepresentation of the identity of the reseller at the time of a telemarketing call.

One area of concern to the MoPSC involves the situation where the actual provider of the service uses a billing agent to handle billing and complaints. The MoPSC has received complaints from consumers who have contacted a billing agent whose name was identified on the telephone bill. Upon discussing the situation with that named contact, they have been informed that although they have reached the billing agent for the service provider, the billing agent has no authority to adjust for the billing complaint. If a billing agent does not have such authority, the actual provider of the service should be required to provide its own telephone contact number. Otherwise, the consumer has no available remedy by which the consumer's bill can be adjusted.

The MoPSC strongly supports the proposal that telephone bills differentiate between "deniable" and "non-deniable" charges. The consumer should be informed, via the billing information, that non-payment of a disputed charge can only result in the discontinuance of the service for which the non-payment relates.

Descriptions of Charges Resulting from Federal Regulatory Action

The MoPSC urges the FCC to establish standard terminology to be used by carriers that bill consumers for access charges and contributions to a universal service fund as a separate line item. Terminology and language to be used to describe such separate line items should be consistent, with a more detailed explanation provided to consumers at least annually, or at any time such itemized amount changes, or upon a consumer request for such detail.

Provision of Consumer Inquiry/Complaint Information

The MoPSC strongly supports the proposal requiring each telephone bill to contain all the necessary information, including a business address and a toll-free telephone number, that would enable a consumer to take action on the consumer's own behalf to dispute the charges contained

on the bill. The MoPSC's Consumer Services Department has experienced the same considerable frustration in its attempts to seek resolution of consumer disputes as the consumers themselves.

OTHER PROPOSALS

Clearly, consumer protection includes both consumer education and the *prevention* of fraudulent and deceptive practices. Statistics released in June 1998, by the National Fraud Information Center, show that more than two out of five con artists (44 percent) are using the phone bill as the preferred method of payment. The top two (2) scams were reported to be *Cramming* and *Slamming* from that same June 1998 information.¹

A consumer's telephone bill should only contain charges for non-telephone related services after such billing has been authorized, in writing, by the *customer of record*. This requirement would significantly reduce the number of cramming incidents.

Statistics suggest that many instances of *Slamming* and/or *Cramming* originate with telemarketing calls. Thus, telecommunications service providers and telemarketing companies should be required to subscribe to the Telephone Preference Service listing of consumers who have indicated they do not want to receive telemarketing calls. Solicitation calls to consumers appearing on this list should be prohibited. Adherence to this requirement would significantly reduce the number of *Slamming* incidents. Additionally, consumer education efforts should include information on how to subscribe to the Telephone Preference Service.

Clearly, *Slamming* could be prevented if the telecommunications service providers were unable to realize financial gains through the unauthorized switching of a consumer's

¹ The National Fraud Information Center is a hotline maintained by the NCL, a non-profit consumer organization in the United States. A copy of the National Fraud Information Center's June 11, 1998 press release is attached hereto as Attachment A.

telecommunications service provider. This could be accomplished if consumers who had a telecommunications service provider changed without the consumer's authorization were not required to pay any charges billed by or on behalf of the unauthorized telecommunications service provider.

The MoPSC appreciates the opportunity to make these comments.

Respectfully submitted,

DANA K. JOYCE
General Counsel

Dated: November 13, 1998

Eunice H. Ross for:
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Thursday, June 11, 1998

Phone Scam has "Crammed" Sweepstakes out of Number One Spot

Top Five Scams of 1998 Released

Cramming -- billing consumers for optional services they never ordered -- has overtaken sweepstakes and prize offers to become the number one scam reported to the National Fraud Information Center so far in 1998.

We were shocked to learn that we had nearly three times as many reports about cramming as we did about phony prize offers, which had perennially ranked number one," said NFIC Director Susan Grant. "Cramming wasn't even among the 1997 top frauds, and now it's outnumbered the second reported scam, slamming, two-to-one."

More than two out of five con artists (44 percent) are using the phone bill as the preferred method of payment, according to statistics released by the National Fraud Information Center, a project of the National Consumers League.

The top five scams are:

1. **Cramming** -- Billing consumers for optional services they never ordered
2. **Slamming** -- In the first six month of 1998, more consumers have reported slamming (phone service switched to another carrier) incidents to the NFIC than in all of 1997.
3. **Advance Fee Loans** -- Empty promises of personal or business loans, requiring payment of fees in advance; many companies operating out of Canada.
4. **Sweepstakes** -- Phony prize awards that require payment of fees first -- and never appear.
5. **Work-at-home scams** -- Kits sold to stuff envelopes, make jewelry, or perform other work-at-home -- with false promises of huge profits.

"The key to cramming, slamming and other telephone-billed fraud is your phone number. It's not that hard to get," says Grant.

"Many consumers who contact the NFIC about cramming and slamming are worried that their service will be disconnected if they refuse to pay the charges. Con artists also exploit the fact that because telephone bills are so long and complicated, it's hard for consumers to spot unauthorized charges.

The top ten states being crippled by cramming are:

1. New York
2. Maryland
3. Massachusetts
4. New Jersey
5. Pennsylvania
6. Virginia
7. California
8. Rhode Island
9. Ohio
10. West Virginia

10. West Virginia

The top ten states for slamming are:

1. New York
2. Massachusetts
3. New Jersey
4. Pennsylvania
5. Maryland
6. Virginia
7. Texas
8. Illinois
9. New Hampshire
10. Florida

Ameritech, Bell Atlantic, Bell South and GTE have recently taken aggressive steps to stop cramming.

Regional statistics on the top 5 for 1998:

- Everything is bigger in Texas:** Texas ranks as number one place where cramming companies are operating, according to NFIC statistics. The state ranks second in company locations for slamming. Texas consumers are being scammed by advance-fee loans more frequently than anywhere else in the U.S.
- Small State, Big Problem:** New Hampshire is number 9 when it comes to slamming complaints.

The National Fraud Information Center offers these tips on cramming:

- Be careful when calling unfamiliar 800 or 900 numbers. Be especially wary of following instructions to "enter activation code numbers" or answering yes to questions that may unwittingly result in authorizing unwanted telephone services.
- Read fine print before filling out a contest form or coupon offer
- Scrutinize each page of your phone bill carefully every month as soon as you receive the bill to make sure that there are no unauthorized charges. Call your local phone company if you see something you are unsure about. If there is an unauthorized charge, call your local phone company to let it know that you are disputing a charge and why.
- Contact the National Fraud Information Center to complain (800-876-7060)
- Send a letter describing what happened and enclosing a copy of the bill to the Federal Communications Commission, Consumer Protection Branch, mail Stop 1600A2, Washington, DC 20554.

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The National Consumers League, founded in 1899, is America's pioneer consumer organization. The NCL's three-pronged approach of research, education and advocacy has made it an effective representative and source of information for consumers and workers. NCL is a private, nonprofit membership organization dedicated to representing consumers on issues of concern.

Editor's note: The NCL brochure "You Make the Call" offers tips for consumers on cramming and other phone issues, including slamming and long-distance scams. The brochure is available

via the NCL web site: www.natlconsumersleague.org

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