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November 13, 1998

EX PARTE OR LATE FILED

Magalie Roman Salas, Esq.  
Secretary  
Federal Communications Commission  
1919 M Street, N.W.  
Washington, D.C. 20554

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NOV 13 1998

FEDERAL COMMUNICATIONS COMMISSION  
WASHINGTON, D.C. 20554

Re: Notice of Oral *Ex Parte* Presentation  
CC Docket No. 94-129

Dear Ms. Salas:

On Thursday, November 12, 1998, Teltrust, Inc. discussed its views on verification issues addressed in Common Carrier Docket No. 94-129. Attached is a memorandum regarding the oral *ex parte* presentation. Also attached is a copy of the recommendations reached by a California workshop regarding unauthorized transfer of service and billing issues, which was distributed at the meeting.

Please contact the undersigned if you have any questions regarding the meeting.

Sincerely,

  
Loretta J. Garcia

Enclosures

cc: Anita Y. Cheng  
Colleen K. Heitkamp

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DOW, LOHNES & ALBERTSON, PLLC

MEMORANDUM

TO: Secretary, Federal Communications Commission

FROM: Leonard Kennedy  
Loretta Garcia

DATE: November 13, 1998

RE: Oral *Ex Parte* Presentation by Teltrust, Inc.;  
CC Docket No. 94-129

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Participants in the meeting held on Thursday, November 12, 1998, were: Stephen P. Goldman of Teltrust, Inc., Leonard J. Kennedy and Loretta J. Garcia of Dow, Lohnes and Albertson, PLLC, and Anita Y. Cheng and Colleen K. Heitkamp of the Enforcement Division, Common Carrier Bureau.

The presenters described Teltrust's business units and its operations. The participants discussed the use of independent third party verification ("TPV") when consumers change their selected telecommunications provider(s), the advantages of TPV as compared to other methods of verification, and live TPV versus automated TPV. The participants also discussed the California verification requirements and workshop recommendations as well as verification issues raised in some of the comments received in the FCC's Section 258 proceeding.

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FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

**WORKSHOP AND THIRD PARTY COMPLIANCE SURVEY REPORT**

**AND**

**STAFF RECOMMENDATIONS**

**TO THE ASSIGNED COMMISSIONER**

**ON**

**UNAUTHORIZED TRANSFER OF SERVICE AND BILLING**

**R.97-08-001**

**I.97-08-002**

**By the  
Telecommunications Division**

**June 30, 1998**

**California Public Utilities Commission  
San Francisco, California**

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ATTACHMENT A: Workshop Agenda

ATTACHMENT B: List of Workshop Attendees

ATTACHMENT C: List of Workshop Attendees

ATTACHMENT D: P.U. Code Section 2889.5 Compliance Questionnaire

ATTACHMENT E: Responses to Compliance Questionnaire

## **Executive Summary**

This report was prepared by the Telecommunications Division at the request of Commissioner Josiah L. Neeper. It summarizes the March 30, 1998, workshop on unauthorized transfer of service provider (slamming) and billing of unauthorized charges (cramming). It presents results of the independent third party verification (TPV) compliance audit (survey) required by Decision 98-02-009. It contains Telecommunications Division staff recommendations for ways the Commission can address both slamming and cramming problems.

The Telecommunications Division staff concludes that the TPV survey has heightened awareness in the industry of the TPV requirement (PU Code Section 2889.5). The responses received indicate that these carriers are generally providing TPV. However only slightly more than half of the carriers in the industry have responded. The Telecommunications Division will attempt to contact those carriers not responding to the survey and inquire why no response was received. The Telecommunications Division will report on its investigation to the Administrative Law Judge (ALJ) and parties to R.97-08-001, and recommend what actions the Commission should take with respect to Interexchange Carriers/Competitive Local Carriers that are consistently in non-compliance with Commission rules.

The workshop was successful in obtaining information useful to the ALJ on billing service and consumer education issues and helped formulate the basis for Telecommunications Division staff recommendations on consumer protection. General consumer protection recommendations that the Commission should immediately implement to more efficiently and effectively protect customers are:

- Require disclosure of PUC Utility Number
- Ensure staff access to carrier complaint information
- Require tracking Preferred Interexchange Carrier (PIC) change disputes
- Streamline consumer protection rules
- Require notice of local service disconnect policy
- Improve consumer awareness utilizing Community Based Organizations

- Suspend Certificates of Public Convenience and Necessity of carriers in non-compliance
- Focus Commission resources to enforce rules
- Publish basic utility information

Specific recommendations addressing slamming are:

- Revise local disconnect policy
- Remove economic incentive for slamming
- Expand TPV to business solicitations
- Inform customers annually of PIC protection Option
- Inform consumers of switch

Specific recommendations addressing cramming are:

- Require separation of the Letter of Authorization from any sweepstakes inducement
- Require authorization for all services
- Require Local Exchange Carriers to take proactive measures

The Workshop agenda and sign-in sheets, and PU Code 2889.5 compliance survey and coded response summary are included as Appendices.

## **I. Background**

The following report was prepared in response to the request of the assigned Commissioner. The report addresses three issues. First, it summarizes what was discussed at the March 30<sup>th</sup>, 1998 workshop (Section II). Second, it provides staff evaluation of the results of the Commission's third party verification compliance survey (Section III). Third, it provides Telecommunications Division (staff) recommendations to the assigned Commissioner of ways the Commission may address consumer marketing abuses (Section IV). Consumer marketing abuses addressed in this report include the unauthorized transfer of customer service and the unauthorized billing of services.

### **A. *Unauthorized Customer Transfer (Slamming)***

Slamming is the unauthorized transfer of service away from the authorized carrier. Slamming includes a change in service from the pre-subscribed long distance carrier to another long distance carrier, or from a pre-subscribed local exchange carrier to another local exchange carrier.

Total annualized "slamming complaints", from 1996 through 1998 have declined, as measured by Primary Inter-exchange Carrier (PIC) disputes reported by Pacific Bell. (See Table 1). While throughout 1997, monthly residential PIC disputes declined, business PIC disputes actually rose (not shown). Further, a troubling reverse in the trend has occurred - in 1998, monthly residence and business PIC disputes have steadily increased, though they are not as high as 1996 and 1997 numbers. Regardless, based on current figures, 1998 PIC dispute numbers are over two-times less than the 1996 figures. CAB

informal complaint data does not contradict the trends indicated in Pacific's figures.<sup>1</sup>

(Table 1)  
Pacific Bell PIC Disputes

1996	205,527	37,414	242,941
1997	82,642	49,892	132,534
1998			
Jan.	3,129	1,893	5,022
Feb.	4,345	2,806	7,151
Mar.	5,376	3,237	8,613
Apr.	5,442	3,640	9,082
May.	5,412	4,242	9,654
Annualized <sup>2</sup> =	56,890	37,960	94,852

In addition to the increase in PIC disputes, there is also a troubling difference in the rates for English-speaking and non-English-speaking customers, as reported in recent surveys. Staff theorizes that the bad actors in the industry are targeting the more vulnerable groups and businesses, and are attempting to remain outside the Commission's compliance and enforcement radar screen rather than conducting widespread abuses. Staff hypothesizes that the decrease

<sup>1</sup> CAB does not separately track slamming complaints, but categorizes them as "abusive marketing" which includes other types of complaints, though this category primarily represents slamming complaints. The category shows a 12% decrease from 1996 to 1997 and a 11% increase from 1997 to the annualized 1998 figure. Telecommunications Division will work with CAB to better track slamming complaints.

<sup>2</sup> Simply;  $(12/5) \times (5 \text{ month total}) = \text{annualized amount}$

in residential slamming rates is due to third party verification requirement for residential service provider changes, recent Commission enforcement actions against slammers, and increased consumer awareness, rather than the spontaneous good will of bad actors in the industry.

Accurate identification of carriers is essential to tracking and enforcement. Staff enforcement relies on public complaints to identify marketing abuse. Currently, the Commission does not have a record of the various fictitious business names under which utility providers operate. Further, some facilities based carriers do not track the PIC dispute rates of their underlying resale carriers which makes it more difficult for compliance and enforcement staff to identify industry bad actors.

***B. Unauthorized Billing (Cramming)***

Cramming is the unauthorized billing for services within the local telephone bill, including charges that customers were not informed of at the time service was initiated. These types of complaints have been increasing. Pacific Bell reports over a six-hundred and sixty percent (660%) increase in cramming type complaints over a six month period, August 1997 (180 complaints) to March 1998 (1190 complaints).<sup>3</sup> Since CAB started tracking cramming complaints in February of 1998, it typically receives 300 cramming complaints per month.

Largely, the local exchange bill cramming problem exists because regulations allow the LEC to sell billing services to third parties which provides the opportunity for third parties to fraudulently charge consumers on their phone bill. Possible solutions for this issue range from requiring the LEC to take more responsibility for these providers, to precluding LECs from providing these

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<sup>3</sup> As reported in a San Jose Mercury News Article; May 21, 1998.

billing services altogether.<sup>4</sup> Current rules are promulgated on the notion that consumers want the convenience of one bill for all telecommunications related services.

Proposed Legislation (A.B. 2142 , Brown, sponsored by the CPUC) is currently pending in the Legislature which would require "authorization" for any charge on a phone bill, with exception of customer initiated charges (e.g., a toll charge, or per call charge). Staff does not wish to rely on "proposed" legislation and believes the Commission should be proactive to focus the legislative effort.

**C. Consumer Protection Goals**

The fundamental principles of the Commission's consumer protection effort that can be used to evaluate any recommendations should be the following. The Commission must ensure:

- ◆ Consumers have adequate information upon which to make informed choices in utility markets.
- ◆ Consumers are protected from remaining market power and market abuses while eliminating unnecessary costs of doing business in California.
- ◆ Rules protect against the potential for fraud and similar abusive practices that accompany a highly competitive market.
- ◆ That fundamental consumer protections are in place, and that the law is enforced in cooperation with the Legislature, the Department of Consumer Affairs, the Attorney General's Office,

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<sup>4</sup> Removing the option to bill through the LEC would not prevent fraudulent billing altogether, as service providers could do so through their own bills.

the various District Attorney Offices and other appropriate agencies.<sup>5</sup>

To protect consumers, interagency cooperation should have as its principal focus: (1) to develop disclosure rules necessary for consumers to make intelligent choices among an expanding range of technology and service options; (2) to ferret out unacceptable sales practices; and, (3) to assure that aggrieved consumers have avenues available to seek relief. To achieve these goals, the Commission should employ cooperative efforts by enlisting the assistance of other state agencies, consumer groups and industry associations.

Rules must address both consumer issues and the needs of the companies. New rules and procedures should be adopted only where there is a clear link between the rule and improper carrier conduct - as more rules for carriers that are already violating existing rules will not advance consumers' interests and will only increase costs for the majority of the industry that is complying with Commission rules. Regardless, consumers must be vigilant. What goes unnoticed by the consumer won't get claimed, what doesn't get claimed gets paid. This truism is what fraudulent service providers rely on.

## **II. Workshop Report**

A workshop was held on March 30, 1998, to address unauthorized transfer of service ("slamming") and unauthorized billing ("cramming"). The workshop was directed by an Assigned Commissioners Ruling (ACR) dated February 11, 1998, which requested parties to (1) provide information they have

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<sup>5</sup> Enhancing California's Competitive Strength: A Strategy for Telecommunications Infrastructure, CPUC, November 1993.

available which addresses the question of whether consumers are being served by their carrier of choice, (2) to draft rules for accurate billing and automatic PIC freezes, and to (3) participate in the March 30<sup>th</sup> workshop. The intent of the workshop was to discuss issues raised in the ACR (See Attachment A, Workshop Agenda). The workshop was moderated by the ALJ with the assistance of Telecommunications Division Staff. Participants in the workshop included 24 individuals, representing 12 parties to the proceeding (See Attachment B, List of Participants). Pacific Bell and GTE were specifically requested by the ALJ to present background information regarding LEC billing arrangements, and Greenlining was requested to present results of its survey of slamming within the non-English speaking communities.

Several parties made recommendations for the next steps the Commission should take on these issues. TURN recommended following through on the course laid out in the ACR, that is, to consider rules that have been proposed. AT&T and MCI strongly encouraged the Commission to pursue enforcement actions against carriers that are out of compliance and to let the Legislature consider the verification proposals. ORA stated its desire for enhanced investigations and discovery opportunities.

**A. Cramming Issues**

The main cramming issues, as they were discussed in the workshop, are summarized below. Also included are some staff comments.

**1. Billing Service Provided By LECs**

*Summary:* The current contractual system between the LECs and their billing customers gives the LECs substantial authority over subscriber bills. LECs approve marketing materials and have the unilateral authority to remove disputed items from a customer's bill. The LECs also charge a fee to the service providers when the LEC must resolve a customer dispute.

*Discussion:* GTE-California (GTE) made a detailed and informative presentation of their process for providing billing and collections service. This presentation provided one foundation for staff recommendations.

GTE currently provides billing and collection service to 41 customers who bill only for their own charges ("direct bill") and 35 customers who provide billing on behalf of others ("subCIC billing"). Each of these billing customers has a contract with GTE that delineates the types of charges that GTE will bill and the protocol that the billing customer must follow.

There are two types of charges that can be billed under the billing contract - (1) pay per call, (such as toll service or 900 calls) and (2) subscribed services (such as voice mail and paging services). Each customer's contract must specify the types of charges that GTE will bill.

Prior to GTE agreeing to bill for enhanced services, the billing customer must submit all marketing material regarding the service or product for which the billing customer proposes that GTE bill. The material must contain a description of the product/service, the price, planned advertising, planned marketing efforts, and how the purchaser can discontinue service. Although GTE has full discretion to accept or reject billing for any product or service, it generally evaluates the request based on whether the product or service is telecommunications related and whether the marketing material meets the "average consumer" standard of full disclosure. GTE rejects approximately 35 to 40% of submissions. No rule exists to prevent a LEC from billing for a non-telecommunication related service. Regardless, at their discretion the LECs state they routinely reject non-telecommunications related charges. For example, GTE received and rejected requests to allow automobile and magazine purchases via the internet to be included on the telephone bill.

Pursuant to the billing contracts, the billing customer determines the specific nature and amount of the charges to be assessed to the GTE subscriber and records the transaction as an Exchange Message Interface (EMI) record which is submitted to GTE. Incoming billing records from the billing customer are screened to ensure that the types of charges comply with the billing contract and that the data conforms to GTE's processing rules. Rejected billing information is returned to the billing customer. Accepted billing data is processed and billed.

All billing data must indicate whether the charges are for a regulated or non-regulated service. Regulated charges include local, toll, long-distance and feature services. Non-regulated services include paging, information, inside wire, directory advertising and enhanced services, such as voicemail. These two types of services are designated on GTE's bills, with the non-LEC, non-regulated charges appearing on a separate page.<sup>6</sup> This page contains a message to consumers that their local service can not be disconnected for nonpayment of these charges. A statement on the reverse page of Pacific Bell's bill identifies that enhanced services charges will not impact availability of local service.<sup>7</sup>

GTE's billing contracts also specify whether GTE or the billing customer will handle customer inquiries about the billed items. Contracts that are "with inquiry" mean the GTE handles the customer inquiries and resolves disputes regarding billed items and GTE's phone number appears on the

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<sup>6</sup> The LECs non-regulated charges are printed on the same page as local charges. LECs consider competitive voicemail services as regulated services because these services are subject to tariffs filed with the Commission.

<sup>7</sup> Identified under the heading, "Billing for Other Than Basic Telephone Service".

subscriber's bill for that service. The majority of GTE's billing contracts, however, are "without inquiry" which means that the subscriber must contact the billing customer to make inquiries or dispute billed items. GTE requires that those billing customers that elect to use the "without inquiry" option meet standards for customer service, including having phone calls personally answered. If a subscriber contacts a "without inquiry" billing customer and is not satisfied with the result, the subscriber can then contact GTE which has the authority to make adjustments to the bill.

GTE charges the billing customer \$15 for each inquiry which requires adjustment - whether the billing service is provided "with inquiry" or "without inquiry". (The comparable Pacific Bell charge is \$9.) GTE (and Pacific Bell) is considering increasing this fee to make it more punitive. GTE suspects that carriers regard this fee as a cost effective approach to provide customer service. The LECs have suggested that raising the "inquiry" fee would impose costs directly on the carrier or service provider that is causing the problem, would provide a financial incentive for the problem provider to institute immediate corrective measures, while creating no additional costs upon those providers who have few or no disputes.

The ALJ suggested at the workshop that the amount the LEC charges for each inquiry provides an opportunity to simultaneously discourage unauthorized billing and potentially provide funds for additional consumer education. Though a higher rate may be punitive, Staff believes any such increase is at the discretion of the LECs. Additionally, though consumer education may be beneficial, Staff does not believe it appropriate that a tax a single service or designate a particular fee, as this would be "rate setting", for what is a Category III, competitive service.

## 2. LEC Handling of Cramming Complaints

The consensus of the workshop participants appeared to be that though consumers do like the convenience of one telephone bill, they may be inattentive to the various charges listed. The primary obligation for discovering any improper billing must begin with the consumer because only the consumer knows whether the service was ordered and, if so, delivered.

Another means of assuring consumers have an avenue to seek relief is better enabling consumers to appeal to the LECs to remove unauthorized charges. The LECs stated that, as a practice, they remove "cramming" type charges upon a consumer's insistence. Though the crammers ultimately bear the revenue loss of the LEC charge reversals - as the crammer gets charged for such reversals, the crammers still have an incentive to do so, so long as cramming goes undetected by the consumer. The consumer representatives explained that cramming doesn't necessarily get detected because customers don't always check their bills, especially businesses. Further, it was presented by industry representatives that customers don't necessarily know the distinction between services for which non-payment would result in local service disconnection (local and toll services), and those services, for which non-payment would not impact local service (all other services), thus customers don't necessarily complain as some perceive that if they do not pay all charges, whether authorized or not, they will lose local service. It was suggested that separating the non-LEC bill from the LEC bill would increase consumer awareness of the existence of other providers service charges.

In reversing charges, the LEC basically has to accept the customers word on the matter, and thereby reverse the charge for the customer, charge back the revenue loss to the service provider (alleged crammer) and apply an additional inquiry fee when applicable. In defense of the industry, not all

charge backs are necessarily indicative of cramming, as the customer is making an untested claim. However, the service provider has the right to withdraw their discretionary service from problem customers, and to collect legitimate unpaid charges.

The current process for disputing a charge would appear to be quite favorable to the consumer. By simply calling the LEC and stating that all attempts to resolve the cramming dispute with the service provider have failed, the LEC will remove the charge. The incentive is for the LEC to maintain their good standing with the customer, and can do so on the cheap because the LEC receives remuneration from the actual service provider for any charge-reversals, which may also be subject to an additional inquiry charge. Thus, the goodwill nature of the LEC is not nearly revenue neutral, but provides positive revenues. However, the LEC is at risk for the service providers default, which if it occurs, the LEC is left holding their accounts receivables. Assuming this is an accurate representation of the actual consumer recourse process, consumers would not appear to be in any need of further protections, except (1) LECs are free to change this practice, and (2) not all cases result in recourse satisfactory to the consumer. Further, consumers could benefit from additional publicity of the LEC process , , such that they could more frequently avail themselves of this option.

### **3. LEC Initiative to Reduce Cramming**

In response to increased number of complaints regarding bills, GTE began a process to monitor complaints and impose consequences on billing customers whose complaint level exceeds certain thresholds. GTE established complaint thresholds based on the volume of bills rendered. The allowable complaint rate decreases as the volume of bills increases. The complaint rates are not based on inquiries or adjustments, but rather on customer complaints that fail

to be resolved at the inquiry level or reach GTE from another source, e.g., complaints to the Commission.

Should a billing customer exceed its allowed complaint threshold, GTE notifies the billing customer that it has 30 days to be in compliance before penalties apply. If it does not, GTE allows the billing customer an additional 30 days to lower its complaint rate but GTE assesses a levy of \$2,000 per complaint over the threshold against the billing customer during that period. If at the end of the second 30 day period the billing customer has not met the threshold, then GTE begins legal steps to terminate the billing contract.

GTE currently has 76 billing customers of which 13 are currently in one of the 30 day periods. GTE described that under its new customer complaint program it has severed its billing relationship with three companies, has fined 11 more for excessive customer complaints, and has reduced third party complaints more than 30 percent as a result of the program.<sup>8</sup> Pacific Bell stated that it has 8 billing customers on probation which appear to be close to termination. Staff believes that objective standards should be contained within the terms of the contract, and as such, termination action is appropriate for the LECs to initiate.

#### **4. Cramming Enforcement**

The precursor to enforcement is consumers and businesses to thoroughly check their bills for unauthorized charges. Once a problem is identified consumers should contact the service provider, and failing satisfaction, they should then contact their local provider, or the CPUC.

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<sup>8</sup> GTE press release of May, 21, 1998, at the "FCC Cramming Forum".

A major problem exists for Commission compliance and enforcement staff. Non-telephone companies engaged in cramming are not subject to Commission enforcement jurisdiction and no rule exists which requires a customer request (authorization) before being billed for service.

GTE and Pacific Bell indicated that the District Attorneys and Attorney General's office can be unresponsive to their requests for prosecution of billing customers that submit unauthorized billings. TURN commented that the AG's and DA's offices have not been very responsive to this issue and regardless, that it is the responsibility of the Commission to enforce its rules. CSD stated that coordinated efforts between the enforcement staff of the Commission and various DA Offices have been successful.<sup>9</sup> These types of cases require close coordination with the DA offices, as the CSD must prepare its cases well in order for the DA to prosecute a case. The CSD has good working relations with DA's Offices and they generally have accepted and prosecuted cases. Usually, the AG's Office has approved proposed settlements on a state-wide basis, and has allowed other agencies, such as the DA, to prosecute. In sum, DAs have been responsive when CSD conducts the initial investigation and prepares a good case. This is due to the specific discovery powers over utilities that the CSD has, and because of the limited expertise and resources of the DA's and AG's offices to conduct their own investigations on telephone related matters.

Though not disagreeing with the necessity of after-the-fact enforcement actions, CSBA suggests that after-the-fact enforcement alone is insufficient, and they wish the Commission to additionally apply preventative

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<sup>9</sup> For example, a recent cramming case was made against "Future Telecommunications Corporation" which resulted in 150 criminal counts, and involves \$500,000 of fraudulent billings to 30 thousand victims.

measures, and suggest such pre-emptive action as necessary and consistent with the Commission's own announced policy of "zero tolerance." Another party commented that the Commission's actions have not been consistent with the Commission declared "zero tolerance" standard, and encouraged Commission-initiated pre-emptive actions. As an example of a pre-emptive action, CSD has protested several license applications for certification because of evidence of cramming activities in this and other states. TURN and CSD proposed a rule at the workshop requiring the LEC billing agent customers to report inquiry rates to the Commission when requested, and that such a rule would assist the Commission's staff in its efforts to identify industry bad actors.

#### **5. Currently Pending Legislation**

CSD, at the workshop, described the currently-pending legislation which would require a consumer's authorization prior to billing for a product or service. The bill would also clarify the Commission's jurisdiction over third-party billing issues. CSD stated its belief that the options being discussed in this docket did not conflict with the legislation as currently proposed. To some participants, the current versions of proposed legislation are less than comprehensive, as they do not require third party verification, as is required for transfer of service. TURN and CSBA recommended that the Commission require service providers to obtain standardized written or recorded evidence that the subscriber has indeed authorized the charge.

The Commission could, at a minimum, adopt a rule requiring that only authorized charges be presented to a LEC for billing. This will give the Commission staff a clear enforcement standard for carriers under its jurisdiction, regardless of the outcome of the legislative process.

## **6. Standardized Rate Information Format**

In addition to including occurrences of unauthorized service charges appearing on a bill, cramming also includes charges that appear on a bill that the consumer was not made aware of at the time of the sale. It has been suggested that carriers provide rate data in a standardized form in writing for consumers to consider before switching and also to verify new bills.

The Commission in its General Order 96-A Reform Proceeding will be addressing the public availability of rates, terms and conditions of service and customer notice of availability for inspection of such. However, the proposed General Order rules do not specify how that information is presented in marketing material. Such Commission specifications for standardized presentation has historically been applied to tariffs and billing. As anyone can attest, few consumers find tariffs a convenient source of information. The discussion in the workshop of the competitive inter-exchange market highlights the fact that customers do not have all the pricing information readily available to them at the time the typical phone solicitation "sale" is made, as the telemarketer is selective in presenting rate information. Further, it is difficult for consumers to gain full and accurate information as all relevant prices are not presented to the consumer, and sometimes not provided when requested. To confirm this, TURN explained how their research for information about rates and optional rate plans from telemarketers and industry representatives consistently led to misinformation and confusion. TURN submitted a sworn statement from a professional employed in the industry who has repeatedly been given conflicting information from the same company.

Beyond the status quo, the choices are simple; either (1) adequately educate consumers of their rights and to ask questions to elicit all the relevant pricing information before switching, or (2) require and enforce carriers

to present all relevant service rates at the time service is offered, or (3) control how charges are authorized and included in a telephone bill.<sup>10</sup>

Regarding item number 2 above, the workshop participants agreed that an understandable means of presenting prices from different long distance service providers would be desirable for consumers. TURN did highlight that a standardized format would be hard to do because of the complexity of pricing structures. MCI stated that consumers want PIC changes right away, and their telemarketers have access to all relevant information, though telemarketers may be reluctant to send written information to the consumer. Further, MCI is concerned that a standardized format will burden industry in serving California. CSD stated that the standardized format could disclose non-usage sensitive fees and non-recurring charges. TURN added that directory assistance rates should also be identified.

Defining the specific services and format for which mandatory disclosure of prices and terms would be presented revealed that any standardized format would contain a large amount of information. Rates and plans vary in response to niche markets. Though, recently utilities have been offering simplified rate plans in response to consumer frustration with interpreting and comparing rates. The workshop participants agreed that while the concept is good, parties did not develop or agree on an acceptable format. Staff shares the concern that a "standardized format" may be cumbersome and believes the concerns which raised this issues are better addressed in the

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<sup>10</sup> E.g., disclosure of how entering a sweepstakes impacts the consumer; or what is a valid authorization for service.

forthcoming GO96 reform proceeding, which will address the issue of disclosure of rates, charges, terms and conditions of utility service.

**B. Slamming Issues**

The parties submitted written comments and participated in the workshop by discussing various issues related to the unauthorized transfer of subscribers from one long distance carrier to another, referred to colloquially as "slamming." Below is a summary of the issues discussed in the workshop.

**1. LEC Handling of Slamming Complaints**

The LECs stated, that as a practice, they credit "PIC" change charges where a consumer alleges a "slam". If they have a "with inquiry" contract with the IEC, then the LEC will reduce toll charges by a small percentage. However, if they have a "without inquiry" contract with the IEC, the customer is referred to the IECs 1-800 telephone number. It was noted that under Federal rules, toll charge re-rating is required of the slamming utility, that the consumer is responsible and liable for paying the slamming carrier at rates equivalent to the former authorized carrier when requested. Workshop participants acknowledged that this is a problem for many consumers, because the burden is on the consumer to correct the slam who may have to wait for months for the re-rating credits to be indicated on the customer's bill.<sup>11</sup>

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<sup>11</sup> Anti-slamming laws have not removed the financial incentive for slamming. Slammed consumers are required to pay for charges, though at the lower rate of their authorized carrier when requested. Only in formal enforcement cases does the Commission impose penalties on carriers. In informal cases, the rules do not permit staff to penalize the slamming carrier.

## **2. Limited-English Speaking Market**

In response to the request contained in the Assigned Commissioner's and Assigned ALJ's Ruling, three parties submitted survey data on customers' views of the slamming issue. Though we have not analyzed the survey techniques, nor validated the survey process, the four surveys in consort do generally support each other's findings. In each case, survey results indicate that knowledge of someone or personal experience with being slammed or crammed is no less than 30 percent, and for those of Hispanic ethnicity it is no less than 42 percent.

### **a) *Greenlining Institute / Latino Issues Forum Study***

These two organizations commissioned a study for this proceeding. Representatives in the workshop described the results of their study. Over 500 Vietnamese, Hmong, and Latino customers located in Orange County, Los Angeles, and Fresno were surveyed. The survey showed:

- More than 50% reported being slammed.
- More than a third reported having been provided with services they did not order, such as three-way calling and Caller ID.
- Fewer than 10% knew where to go if they had a problem with their long distance service.
- 64% thought that the Commission was not doing enough to protect them.

### **b) *Study Submitted by TURN***

TURN presented a copy of a study conducted by Louis Harris and Associates for The National Consumers League which researched consumers' awareness of slamming in the Chicago, Milwaukee, and Detroit markets in September 1997.

The study concluded:

- 30% of surveyed adults say they or someone they know had been slammed.
- 28% of "White" respondents reported being slammed or knowing someone who did, compared to 39% of "Black" respondents and 42% of "Hispanic" respondents.
- 23% of those with a household income of \$15,000 or less know someone who has been slammed compared to 35% of those with a household income of \$50,000 or more.
- 26% of those who have at the most a high school education and 32% of those with some college compared to 36% of those who have completed a college education have been or know someone who has been slammed.
- 29% of those who spend less than \$100 on an average phone bill compared to 37% of those who spend \$100 or more on an average phone bill have experience with slamming.

Overall in the three markets, the likelihood of having been slammed or knowing someone who has been, increases with household income, level of education, the amount spent on an average phone bill and being Black or Hispanic.

**c) Two Pacific Bell Submitted Studies**

Pacific Bell included in its written comments two studies.

Though not discussed in the workshop, these studies are noteworthy as results support the previous studies. The first study was performed by GLS Research in February 1997 on the topic of slamming of Pacific Bell's Latino customers. The study reports wide-spread slamming and "slamming" style practices:

- 51% report being slammed. Those most likely to be slammed are: those born in Mexico, those who have

lived in the U.S. the shortest period of time, those least comfortable with English, and younger women.

- 39% say they received a confusing phone call about telephone services, and then discovered their service was changed without permission.
- 57% percent said they were most concerned that slamming shows disrespect to older people, minorities, and new immigrants.
- 51% said they were concerned that calling to complain might lead to the company cutting off their phone service or raising rates.
- 31% said they were concerned about complaining because it might lead to their being investigated because they are Hispanic.

Pacific Bell's study of Latino customers indicates that slamming is widespread in this group of customers and suggests that it may be undercounted because customers fear retaliation of complaining.

The second study Pacific Bell submitted was prepared by SBC Communications, the parent company of Pacific Bell, Southwestern Bell, and Nevada Bell, which surveyed 1,210 customers in the seven state region. The survey results for California showed that:

- 30% have been slammed or know of someone who has been.
- 77% of those surveyed expressed that they expect the slamming problem to get worse, and feel the need for protection to prevent it.
- The respondents are primarily looking to telephone companies for solutions, but also look to the government for consumer protection and enforcement.

The Commission has found that customers whose language choice is not English experience higher rates of unauthorized transfer than

English preferring customers.<sup>12</sup> The study results summarized above add additional support to the Commission's finding that this practice is occurring.

Although this phenomenon is indicated in the surveys, effective means of resolving it are less apparent. A logical first step, however, is to educate consumers about their rights. No workshop participant spoke against consumer education, though, TURN and others emphasized that the Commission shouldn't rely on education alone, as most importantly, rules must first be adequate and then enforced. A workshop participant suggested that established community groups could be engaged to administer any educational programs. Such groups would have close ties to the community members and would be respected sources of information.

### **3. Carrier Identification Codes**

The Carrier Identification Code (CIC) as a means of tracking individual carrier activity within the network was discussed at the workshop. Presently, CICs are not assigned to all of the smaller resale carriers - nor do all facilities-based wholesale carriers require their resale carriers to have a CIC. MCI is the only large facilities-based carrier that requires all its resale customers to have their own CICs.<sup>13</sup> AT&T and Sprint currently do not require this. As a result, the PIC rates of their non-identified resale carriers are not traceable and

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<sup>12</sup> Communications TeleSystems (CTS) International, was found to have targeted non-English speaking customers in its violations of the anti-slamming statute. In I.96-02-043, Decision 97-05-089, Finding of Fact #6, states that the AT&T, MCI and Sprint average PIC dispute rate of Spanish only customers is greater than the total average by 64%; and Finding of Fact #7, states that the CTS Spanish only PIC dispute rate is greater than the average by 209%.

<sup>13</sup> Worldcom does not require CICs and post any merger, the MCI requirement could change.

are reflected in their wholesale facilities-based long distance carrier's PIC rates. Because the large carriers are so large, a high PIC rate for a non-identified reseller may have a negligible affect on the large carriers' PIC dispute rate. As a result, the customer transfer dispute reports provided by LECs for the other two large facilities-based carriers, AT&T and Sprint, reflect not just the disputes associated with the named carriers but also for their resellers without CICs. As the smaller carriers have historically created a disproportionate share of the slamming complaints, the dispute data for non-facilities based carriers is particularly valuable, but remains inaccessible to enforcement.

Thus, to obtain a full view of PIC disputes for carriers, the Commission needs not only the PIC dispute reports by the LECs, but also reports from the facilities-based carriers that do not require unique CICs. CSD identified that the PIC-Lock option will not be effective unless each reseller carrier has its own CIC.

Sprint stated that a "reseller" code could be created, but it would require the LECs to implement it. The Sprint representative stated his understanding that the organization which issues CICs is considering expanding the code length because current codes are exhausted. Sprint also commented that adding new codes will be costly to the industry, estimating it would be "over a million dollars per code".

AT&T commented that rules of the sort contemplated are not necessary because interstate communications are deregulated (outside of state jurisdiction) and that the Commission should focus on investigation of enforcement slamming because state jurisdiction does apply to the contractual arrangement. MCI stated that it would be premature to act because of pending legislation. CSD argued that the efforts should be parallel with the legislative effort and that CICs for each carrier, or a substitute would improve its ability to

perform its enforcement function. Staff notes that with the advent of local competition, PIC rates are necessary for both inter and intra-exchange changes in service provider.

#### **4. Automatic PIC Freeze**

Though, discussed briefly, the general comments of the workshop participants was that the administrative ease of automatically suspending a carrier's right to submit carrier-initiated customer transfers when exceeding a pre-established PIC dispute level was outweighed by the serious due process issues raised by taking such action without a hearing. Though, CSD staff indicates that limited, Commission imposed application of a PIC freeze is necessary in a Commission enforcement action to protect the public from imminent harm.

#### **5. Local Service Disconnect**

Currently, P.U. Code Section 779.2(a) says that a telephone corporation can't terminate residential service for non-payment of a delinquent account owed by the customer to someone other than the telephone corporation, with the following exception: Section 779.2(b) states it "does not apply to a telephone corporation operating within service areas which furnishes billing services to the subscribers of a telephone corporation operating between service areas pursuant to tariffs on file with the Commission providing for the furnishing of those billing services." This means that a LEC can terminate residential service if a customer fails to pay monies owed to an IEC - if the LEC bills that customer for the IEC's telecommunications services, and if the LEC has billing and collection service tariffs on file. Unfortunately, this policy provides an opportunity for the slammer to hold the local service hostage until the slamming bill is paid.

Though, TURN is the only party vocally recommending changing this policy, all of the consumer representatives at the workshop identified problems which support reforming this policy. They stated that the current policy incorrectly assumes that existing slamming controls are adequate. They argued that existing rules stack the deck against consumers and businesses, because local service can be held hostage until the slammer's toll charges are paid, and the burden is on the consumer to identify, and complain to several companies to have charges re-rated. Greenlining /LIF explained that slammers are targeting the non-English speaking community and that disconnections are inappropriately occurring in this community, because slammers know that the non-English speaking community has difficulty in disputing charges, and if they do, the slamming utility can more easily threaten these individuals with disconnection. TURN emphasized their evidence that some of the slamming service providers are difficult, if not impossible to reach. CSD stated that customers are threatened with disconnection, that adjustments may show up months later, and that customers are simply unaware that they can contact the LEC and have the unauthorized "cramming" or slamming PIC change charges removed from their bill, - and regardless slammer toll charges are required to be paid, though re-rated if requested.

Not disputing the possible occurrences as described by the consumer representatives, the workshop LEC and IEC industry representatives discussed the importance of continuing the disconnect policy. First, the policy encourages consumers to pay their bills, thereby reducing un-collectibles, Second, the LECs state they are responsive to consumer complaints, -- that they will encourage consumers to request an investigation of charges by the IEC, and allow a partial payment from the consumer. Third, the LECs state that as

purchasers of the accounts receivable they are collecting a debt owed to them, which is no longer owed to the original service provider.

When partial payments are received the LEC will pay local charges first, then other regulated charges such as toll and long-distance, then unregulated charges such as voice-mail, enhanced services, or information services - though, the LECs will allocate voice-mail charges to itself before allocating revenues to competitors voice-mail services, because LECs file tariffs for voice mail and therefore consider it to be "regulated". There are currently no rules in place for allocating partial payments among LEC and non-LEC service providers, and examination of LEC bills indicate that "LEC charges" appear near the local service category, whereas "non-LEC, charges" appear on a separate page. The debt owed to the LEC after it purchases the accounts receivables of the billing service customer is competitive and not regulated by the CPUC, hence the value of the debt is negotiable.

Some argue that removing local disconnect may encourage some disingenuous consumers to change providers without intention of paying legitimate charges, however, others argue that this would require vigilance of service providers to identify and avoid these individuals by inquiring into credit history, and/or requiring appropriate deposits.

Parties did generally agree that customers who are slammed should try to contact the slamming service provider first, and failing satisfaction to reach resolution, customers must have recourse through the LEC and Commission. CSBA would require the LEC to investigate the disputed charge. As described above by GTEC, if a customer continues to dispute a charge after

contacting the service provider, GTEC and Pacific Bell will directly remove the charge, though not necessarily for IEC toll charges.<sup>14</sup>

*Competition and regulation:* P.U. Code Section 779.2(b) allows local carriers to disconnect local service for non-payment of long-distance. Certain local carriers have already engaged in slamming for intra-exchange services, which highlights the nascent, but inevitable slamming problem in the local market. Such problem exists in the local and long-distance market because of the ability of competing utilities to initiate changes in customer service.

No participant recommended replacing the carrier initiated transfer, which provides an unintended opportunity for unscrupulous carriers to switch customers, with customer initiated changes. A policy which only allows customer initiated changes would likely eliminate slamming, though potentially limit competition and raise concerns about competitive equity - because the customer call to the local company requesting a switch in provider of long-distance may provide a sales opportunity for affiliated long-distance services.

## 6. Slamming Enforcement

Pacific Bell's PIC dispute data showed a substantial decrease in the number of residential slamming complaints from beginning of 1996 - through 1997, and an increase for business consumers during 1997. PIC disputes have increased in 1998, but are far less than 1996 and are below 1997 rates. The

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<sup>14</sup> As described in billing service provided by LECs above, the LEC will reverse toll charges when the service provider contracts for the LEC to perform the "inquiry" function. The majority of billing customers elect to provide their own inquiry staff, in which case the LEC will not reverse toll charges and will simply refer the consumer to the service providers 1-800 number. In the case of alleged cramming, the LEC will reverse charges in either case.

general consensus of workshop participants for primary factors driving the decline in 1996 - 1997 residential slamming are:

1. Third Party Verification - Mandatory third party verification, January 1997;
2. Commission's Enforcement Efforts - The industry press and "industry grapevine" has reported Commission actions resulting in fines to several companies engaged in residential slamming; and
3. Consumer Awareness - The press, and personal experiences have increased consumer awareness.

A workshop participant reported that carriers find Commission investigations highly undesirable and will go to great lengths to avoid one. The carriers state that they find the initiation of even an informal investigation to be cause for alarm and that it encourages compliance.

Several workshop participants also noted that focused enforcement investigations have the benefit of only imposing costs on those carriers that are not in full compliance with the Commission's statutes and regulations. Carriers that are not experiencing high customer transfer disputes are not affected by enforcement actions, and, indeed, benefit when unscrupulous carriers are brought into compliance. Carriers repeatedly emphasized that additional consumer protection costs and burdens should be targeted at carriers that are violating Commission statutes and regulations, not the industry as a whole. Commission enforcement efforts clearly meet this objective. However, some slamming may still be occurring without penalty to the offending utility and the previous surveys do raise concern that slamming may be targeted to particular market segments. Slammers clearly benefit when it is undetected by the consumer and enforcement staff.

The CSBA again emphasized, as it had regarding cramming issues, that enforcement is not enough, as evident that business slamming

increased while residential decreased and suggested that the Commission consider requiring third-party-verification for business solicitations. Consumer representatives also pointed out the difficulty that consumers have in obtaining satisfactory results from the Commission's complaint process. Limited telephone hours and language capability, timeliness of Commission resolution of informal and formal complaints, as well as public awareness of the Commission's role, were cited by several parties as impeding full service to the public. CSD pointed out that the CSD currently has limited staff assigned to telephone slamming and cramming investigations. The consensus of the workshop was that additional experienced staff was necessary to aggressively enforce existing laws.

The Commission staff has been experiencing a utility identification problem in the use of fictitious business names, also known as "DBAs." While the use of such names is within the law, the Commission faces serious obstacles in identifying carriers that have obtained a CPCN under one name but are doing business under another.

The Commission is not the only entity seeking proper identification of carriers. In a March 4, 1998, letter Pacific Bell Vice President William A. Blase, Jr., cited concern in accurately identifying carriers and requested that an up-to-date list of all CPCNs and related business names be made available. At the workshop, one party suggested that such a list should be available on the Commission's internet site. Maintaining an accurate list of all names of authorized carriers would allow Commission staff to respond to customer requests to confirm that a service provider is certificated. The downside, is that carriers may not actually file as required. Outside of the workshop, a party suggested alternatively, that the Commission could require utilities to indicate their PUC utility number on each LOA and printed solicitation or advertisement. Consumer complaints would be easier to associate

with a particular carrier if the consumer can identify the utility by number. Staff could still provide a list of known utility names, regardless.

### **III. Third Party Verification Compliance Survey**

In Decision 98-02-009, the Commission ordered an audit of all California telephone corporations with the purpose "to ensure industry-wide compliance with Public Utilities Code Section 2889.5." That statute requires implementation of third-party-verification (TPV) by carriers providing residential competitive service. The decision required all certificated Interexchange carriers (IECs), and all certificated competitive local exchange carriers (CLCs), to complete and submit a compliance questionnaire. The decision was served on 484 carriers. A second audit notice and attached compliance questionnaire was sent on March 27<sup>th</sup>, 1998, to non-respondents of the first mailing and to an additional 137 carriers. In total 617 carriers were sent the survey. (See Attachment C, Audit Notice and Attachment D, Questionnaire).

As of May 26, 1998, 354 carriers had responded in writing to the questionnaire and the reminder notice, leaving 263 carriers not responding. At the workshop, the participants inquired of the staff's intention regarding the non-compliant carriers. Several utility and consumer interest participants urged the Commission to take decisive steps to impose sanctions on the carriers that have not complied with the Commission order. One participant suggested that the non-responsive carriers may be in violation of the terms of their CPCNs to abide by all Commission rules and orders. The possibility that the carriers were no longer in business was also suggested. In either event, the workshop participants supported initiating a process to suspend the carriers' CPCNs.

*Survey Conclusion:* The survey at best has heightened awareness in the industry of the TPV requirement. Indeed, many carriers

contacting the Telecommunications Division regarding the questionnaire exhibited an awareness of the TPV process, and several IECs were provided a copy of the statute upon their request. Nevertheless, respondents to the survey represent only slightly more than half of the carriers that may be in the marketplace. What this other half is doing regarding TPV, or even if these carriers are in business, we can not say at this time.<sup>15</sup> The responses received suggest that the IECs are generally providing TPV. However, because the survey does not explain the requirements of P.U. Code 2889.5, carrier responses may not reflect statutory requirements. Staff was not able to directly audit these carriers to determine the accuracy in reporting.

**IEC/CLC Survey Response (as of 5/26/98)**

Surveys Completed	287	46.6%
Surveys Incomplete	67	10.9%
Postal Returns	51	8.3%
No Response	212	34.2%
Total	617	100.0%

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<sup>15</sup> Indeed, staff attempts to contact the non-respondents have yielded little success, as carriers have not kept the Commission apprised of current addresses and phone numbers. The Commission mandated area code splits have even hampered staff efforts to contact the non-respondents.

*Results Summary:* Of the 354 respondents, 14% indicated NA for both residential and business solicitation – implying that the firm is not engaged in business at this time, but wishes to keep the license active. As for handling customer PIC disputes, of the 354 IEC/CLC respondents, 9% indicate they will switch back the customer; 7% say they will switch back at no charge, 17% say they will switch back at no charge with refund; and 26% indicate some other dispute resolution method. Half of the 287 respondents who completed the question say they will terminate an agent for non-compliance with the carrier's customer authorization policy. Responses indicate that customer complaints were the predominant source for information to the carrier regarding TPV agent non-compliance. (See Attachment E, Responses to Questionnaire).

*Residential Solicitation:* Responses indicate that 79% of those who solicit residential customers use TPV; furthermore, the TPV used is independent, and only 2 of these IECs/CLCs pay their TPV agents a commission – one of these two pays commission based on the number of contacts, irrespective of the number of confirmed verifications, which is consistent with PU Code Section 2889.5(a)(3)(A)(iv).<sup>16</sup> The other response was not specific, and the Telecommunications Division will review this further with the carrier.

Twenty (20) IECs/CLCs who solicit residential subscribers (out of 96) report that they do not use TPV to verify customer authorization. Of these 20, one carrier replied that it provides international access only and that the subscriber's PIC is not changed. Another said it only provides 1010XXX access.

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<sup>16</sup> P.U. Code Section 2889.5 requires independent TPV of all residential competitive service transfers, and prohibits payment of commission or compensation based on the number of sales confirmed.

One indicated it did not do business in California during 1997. One carrier only solicits customers which have no existing service (e.g., those without credit or terminated for non-payment). One carrier only markets by direct mail to airline employees. Several carriers said that they use written authorization only, or rely on the customer to contact the LEC for the PIC change. The rest did not offer any explanation for not using TPV. The Telecommunications Division will review the subscriber authorization practices of these carriers to insure compliance with PU Code Section 2889.5(a)(3). Any violations of the statute will be reported to the Commission's Consumer Services Division (CSD) for enforcement action.

*Average Monthly PIC Dispute Rates:* The Telecommunications Division reviewed responses in an to attempt to determine if the use of TPV since the statute became effective in 1996 has reduced the number of subscriber PIC change disputes and whether any conclusions can be drawn from the questionnaire responses for a carrier's solicitation techniques and reported PIC dispute rates. However, most of the answers from respondents were inconsistent or vague— hence no definite conclusion is possible. Some reported whole numbers per month rather than rates, and only about 30 data points were expressed as a percentage. For example, some respondents reported numbers per month ranging from less than one per month to 97 per month, and of the 30 data points, responses range from 0.00065%, to 5%. Further, 81 indicate they had no PIC disputes, and 17 say they keep no record of PIC disputes.

For average monthly PIC dispute rates for the two years, 1996-1997 some firms indicate a decrease for 1997 rather than an increase in the average monthly PIC dispute count from 1996-1997. However, the IECs/CLCs with maximum PIC dispute counts in 1997 had lower two year average counts (1% for 1996-1997 instead of 5% for 1997, and 76 for 1996-1997 instead of 97 for 1997).

*Business Solicitation:* Of the 354 responses, 54% indicate that they solicit business customers. Of the 190 who solicit business customers, 86% say they verify business customer transfers, and 5% say they don't verify. Of the 164 verifying business customer transfers, 67% say they use a written method, 16% say a verbal method; and 13% say they use the same method as for residential customer transfer verifications. Half of the business solicitors say they will switch a disputed customer back to the original carrier - the remaining use some other dispute resolution process.

*Issues to Resolve:* The Telecommunications Division will attempt to contact these 263 IEC/CLC carriers to find out if they are still in business and if so, why no response was received. The Telecommunications Division will determine whether or not any of these firms have reported any PU Code 431 fees, and determine if any PU Code or Commission ordered surcharges have been reported, and determine what, if any, complaint actions or investigation proceedings have been commenced against any of these firms.

The Telecommunications Division will present the results of its investigation to the Administrative Law Judge (ALJ) and parties to R.97-08-001, including its recommendations as to what actions the Commission should take with respect to IECs/CLCs that are consistently in non-compliance with Commission rules. Staff will propose to cancel the firm's Certificate of Public Convenience and Necessity (CPC&N) by Commission Resolution after appropriate public notice in the Commission's Calendar. If necessary, Staff will forward the matter to the ALJ in R.97-08-001 so that appropriate enforcement action can be initiated by CSD.

## **IV. Recommendations**

Conclusions and recommendations are divided into several parts. First, we propose general consumer protection recommendations that the Telecommunications Division Staff believes the Commission should immediately implement to more efficiently and effectively protect consumers. Second, we propose specific recommendations to protect consumers from slamming. Third, we propose specific recommendations to prevent cramming.

### **A. General Recommendations**

#### **1. Require Disclosure of PUC Utility Number**

All utilities should legibly identify on all utility bills, letters of authority (LOAs), printed or electronic, and advertisements, other than radio, their utility number, as "CPUC #", e.g. "CPUC-5000-C", in no less than 10 point typeface. Carriers who fail to identify their CPUC number will be subject to penalties pursuant to P.U. Code 2107 and 2108 - per each bill or instance.

*Rationale:* CSD enforcement staff has described the problem of receiving consumer complaints regarding telecommunications utilities operating under names unknown to the Commission. This results in difficulty in identifying the offending party. The Commission has adopted the disclosure in the energy and transportation industry, to require licensed service providers to identify their license number on advertisements and utility bills. The P.U. Code identifies specific penalties applicable to charter party carriers, passenger stage, household goods carriers, and energy service providers for not displaying their

license number.<sup>17</sup> Other regulatory agencies, such as the Department of Consumer Affairs, State Contractors Licensing Board, and other boards, similarly require display of the license number. TD Staff believes this to be an appropriate regulatory responsibility to provide information to the consumer regarding a carrier license. Such display would assist in the identification of an alleged offending carrier and resolution of an inquiry or complaint. The Commission should provide CSD staff delegated authority to cite telecommunications providers for non-compliance with this identification rule, up to the amount pursuant to P.U. Code 2107 and 2108. Further, the letter "U" preceding the utility number should be revised to "CPUC" thereby providing relevant information to the public that the identification number is associated with the CPUC.

**2. Ensure Staff Access to Carrier Complaint Information**

The Commission should require that all LECs and CLCs track the number, type, and status of subscriber billing complaints and adjustments. This should apply to all firms to which the LEC or CLC provides wholesale, and billing and collection services. Similarly, each IEC providing wholesale services shall track the number, type, and status of subscriber complaints it receives for all firms to which the IEC provides resale services. Tracking shall include the rate of unauthorized billing alleged by customers, PIC dispute rates as reported by LECs

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<sup>17</sup> For charter party and passenger stage carriers, see P.U. Code Sections 5411.3; for household goods carriers, see P.U. Code 5311, and for ESPs, see P.U. Code 394.5. All carriers are subject to section P.U. Code 2101 (et seq.) penalty provisions of the code, and household goods carriers are additionally subject to citation forfeiture and field citation misdemeanor.

electronically, and the totals for each of these, among other things TD or CSD may request.

*Rationale:* The TD and CSD staff of the Commission may request dispute information to identify problems or for developing a thorough case against a particular bad actor in the industry. Staff may request complaint information to be provided on a regular basis or when required. If the LEC/CLC can bill for various service providers, it should have the responsibility to track complaints regarding those service providers.

### **3. Require Tracking PIC Disputes**

The Commission should require that the industry, for the purpose of tracking PIC changes, adopt a unique identifier code for each carrier providing telecommunications service. Such unique identifier may be accomplished with the CIC or an alternative means developed by the industry.

*Rationale:* The workshop record supports the desirability of requiring all carriers to have a unique CIC. However, discussion at the workshop raised issues as to whether meeting such a requirement is feasible due to the lack of available codes, and the cost to the industry of implementing it. Further, alternative means of tracking PIC changes (other than by CIC) may be necessary. For example, the Commission could require that the local exchange carrier track PIC changes as a condition of it offering billing service. As a result, the local carrier could require that as a condition of carriers purchasing billing services, each billing customer carrier must have a CIC or other identifier. Because of the uncertainty of how PIC changes may be tracked, parties should provide written comments on the cost and feasibility of requiring a unique CIC for each IEC.

#### 4. Streamline Consumer Protection Rules

Staff proposes that the Commission compile the various current consumer protection rules into a single, streamlined set of Minimum Consumer Protection Rules equally applicable to all competitive telecommunications utility services (including all CLC, IEC and CMRS services, with the exception of one-way Paging), and LEC Category III services.

*Rationale:* The purpose of these Customer Protection Regulations is to establish minimum Customer Protections/rules and responsibilities of current or potential customers who take tariff or non-tariff, retail or wholesale, services from non-dominant telecommunication utilities. Such effort would simplify, and streamline the various deposit return rules, billing dispute and service disconnection rules that currently exist for specific carrier types. Staff believes minimum Customer Protections will assist California's consumers and non-dominant telecommunication utilities by establishing a single, streamlined set of consumer rights and responsibilities and rules that apply equally among all non-dominant telecommunication utilities serving California consumers. Some of the benefits of a streamlined set of minimum consumer protections are that:

- ◆ Consumers will be better able to understand a single set of rights and responsibilities.
- ◆ The Commission will be better able to enforce a single set of rules for all competitors.
- ◆ Utilities will be better able to abide by a single, simplified set of rules for all its services.
- ◆ The Legislature and Public will be better able to understand the role of the Commission during the telecommunications transition to fully competitive markets.

These proposed streamlined consumer protections obviate the need to establish CMRS terms and conditions as required in decision 96-12-071, and to separately streamline or update CLC and NDIEC rules within their respective proceedings.

This effort was first proposed by Staff to parties in its G.O.96-A Reform January 17<sup>th</sup>, 1998 workshop. The minimum consumer protection issues are to be addressed in the G.O.96, Consumer Protection Program OIR, following release of the G.O. 96.

**5. Require Notice of Local Service Disconnect Policy**

On each bill, the LEC should clearly identify those services, which if left unpaid, could result in loss of the subscriber's local telephone service.

*Rationale:* Consumers need to know whether non-payment of some services could result in local service disconnection, especially if the Commission maintains the current rules which allow local service to be disconnected for non-payment of inter-exchange service.

**6. Improve Consumer Awareness Utilizing CBOs**

Commission Staff engaged in outreach and education should be assigned to increase consumer awareness of fraud, unauthorized service transfer "slamming" and billing "cramming", and how consumers may seek relief through their local phone company, by coordinating outreach efforts with community based organizations (CBOs).

The two recommended actions are:

- ◆ Commission staff should be directed to form an ongoing relationship with CBOs to both provide information and receive information regarding consumer issues.
- ◆ The Commission should distribute its "consumer alerts", the "Anti-Slamming Consumer Guide", and any forthcoming

consumer information to the network of CBOs. The Commission should make efforts for consumer information to be available in languages other than English.

*Rationale:* Though consumers are generally aware that they need to check bills carefully, non-English speaking consumers need to be made aware that should they have a billing problem they should attempt to contact the carrier and present all the relevant facts. If the service provider investigation response leaves them without satisfaction, they should contact their local phone company, and then the CPUC, without fear of retribution.

#### **7. Suspend CPCNs of Carriers in Non-compliance**

The staff has the responsibility to enforce the rules of the Commission so that all utilities equally comply with regulations. Pursuant to D.93-05-010, staff is directed to prepare resolutions when an IEC is 90 or more days delinquent in filing the annual report required by General Order 104-A or in remitting the fees to fund the Universal Lifeline program, the fees to fund telecommunications devices for the deaf, or the user fees on intrastate revenues. The TD staff will draft resolutions for suspending the CPCNs of service providers in non-compliance with one or more of the six following criteria:

- Did not respond to the P.U. Code 2889.5 Compliance Survey
- Did not file fees or surcharges within the last 90 days of due date
- Did not notify the Commission of its change of address
- Did not request an extension of non-operation for the CPCN
- Did not file annual reports
- Did not respond to all CAB complaint inquiries

#### **8. Focus Commission Resources To Enforce Rules**

Recently, the CSD has taken several steps to improve the customer service provided by it, including expanding live person call answering

times to 8:00 a.m. and 5:00 p.m., Monday through Friday. The following are recommendations of the workshop participants which they believe will enhance consumer protection by focusing attention on the wrong-doing carriers and not imposing additional costs on compliant carriers:

1. Increase Commission CSD enforcement staff dedicated to telecommunications issues.
2. Increase time that CAB staff is available to answer questions by telephone and process informal complaints.
3. Ensure availability of multi-lingual services or staff.

These actions do not require formal Commission rulemaking or decisions, but rather are internal management decisions for the Commission to make via its usual management structure. Staff will forward these recommendations to CPUC management and the Consumer Protection Task Force recently established by the Commission to consider this and related consumer issues.<sup>18</sup>

#### **9. Publish Basic Utility Information**

Telecommunications Division staff should make available a list of carriers and DBAs maintained up-to-date on its website. Carriers would be encouraged to supply their DBAs to the CPUC to be included on this list.

*Rationale:* Consumers often call the Commission requesting referrals of who may provide various telecommunications services. Information would assist the public to identify which carriers are licensed, their operating names, status of license, general category of services offered and telephone numbers for consumers to reach the various companies. Utilities should find that

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<sup>18</sup> The Consumer Protection Task Force will submit its recommendations to the Commission in July 1998.

providing this information to the Commission for posting on its website is a valuable consumer service, and albeit, free advertising.

**B. Slamming Recommendations**

In addition to the general recommendations above, the following recommendations specifically address slamming. However, because there are many ways to achieve a desired end, staff places the recommendations in the order of importance.

**1. Revise Local Disconnect Policy**

The LECs should be prohibited from disconnecting local services for failure to pay non-local charges. Such a rule requires a definition of what a local service is. Local service could be synonymous with basic service, which is defined in the Commission's Universal Service Decision D.96-10-066.

*Rationale:* This broad policy would (1) diminish incentives for unauthorized long distance or toll charges as customers could not be threatened with local disconnect; (2) provide regulatory consistency between LEC services and that of competitor billing companies in the marketplace; (3) ensure maximum local access retention of customers, because it would be easier to maintain basic service in lieu of financial difficulties with non-local service charges; (4) eliminate ability of an IEC to hold hostage a customer's local service after a slam, and (5) eliminate consumers having to pay reconnect fees and deposits if disconnected due to a slam. No other single proposed rule does as much. Though, this rule is not mutually exclusive and other rules could be adopted in tandem, staff believes this rule has the greatest impact and is the most streamlined of proposed rules to address slamming, hence, it alone could make the greatest impact to prevent slamming.

Under this rule, the long distance company can block the customer's access to the specific carrier's services if the customer is fraudulently

failing to pay the long-distance bill - without impacting the consumer's local service, unless that too remains unpaid. To remain in good standing with a service provider, customers will have to pay their bills as in any competitive service. Further, service providers have collection options as with any competitive service.

Cox Cable pointed out that competitive local carriers which bill and collect only for their own services, should be able to disconnect local for nonpayment of toll where the CLC is the toll provider. Simply removing the "authorization" provided in P.U. Code 779.2(b) would accomplish Cox Cable's proposal. However, Staff disagrees and its recommendation would specifically "prohibit" disconnection of local service for non-payment of all non-local services.

P.U. Code Section 779.2(b) governs the proposed rule. We believe adequate discretion exists for the Commission to adopt the rule without legislative change. Legal briefs should be filed on this matter to determine the level of Commission discretion/authority under P.U. Code Section 779.2.

Specifically, parties should respond to the following questions:

- (1) Should the Commission prohibit telephone companies from disconnecting local service for nonpayment of any delinquent account owed by the customer to any other person or corporation?
- (2) Does P.U. Code Section 775.2 bar the Commission from prohibiting telephone companies from disconnecting local service for nonpayment of any delinquent account owed by the customer to any other person or corporation?

- (3) Does a prohibition against such disconnection create an incentive for increased subscriber default on payment of charges other than the LEC's?
- (4) In lieu of prohibition against disconnection should the Commission require tariffed subscriber notice, review, and appeal procedures prior to any termination of local exchange service? If so, what should these procedures be?
- (5) What effect does such local disconnect prohibition have on competition in telecommunications with respect to customers and carriers?

**2. Remove Economic Incentive for Slamming**

If a consumer is slammed, all charges for the change and reconnection, and all billings by the unauthorized provider for the first 60 days, (or first billing, whichever is longer), should be credited to the consumer or returned to the consumer if paid. Call re-rating (rebilling calls at the preferred company's rates, if lower) should be provided for calls after 60 days up to the date customer discovers and reports the slam. The customer will have been determined "slammed" by the service provider if the service provider fails to produce the proper authorization to the Commission's Consumers Affairs Branch (CAB) staff person whom the customer contacted. The customer or carrier may appeal the informal CAB resolution by filing a formal complaint with the Commission.

**3. Expand Third Party Verification to Business Solicitations**

The Commission should expand application of P.U. Code 2889.5 third party verification to business service provider solicitations. The Commission should sponsor legislation to codify this requirement. For business

service, only the person designated as the contact or an officer, or owner of the business should be permitted to authorize a change.

*Rationale:* The TPV statute is limited to residential service solicitations. The reduction of residential PIC dispute rates since the initiation of third party verification, and the increase of PIC dispute rates for businesses since the inception of residential third party verification is evidence that third party verification has been successful in reducing unauthorized service transfers for residential customers. Business customers who are now targeted by slammers would benefit from third party verification.

#### **4. Inform Customers Annually of PIC Protection Option**

Customers should be informed of the PIC (Pre-subscribed Inter-exchange Carrier) protection option on an annual basis.

*Rationale:* Consumers should have control over who provides them service. Current rules compromise this consumer right in order to encourage competition. Current rules do not provide consumers this opportunity as carriers may switch provider of service at any time. Without PIC protection, a consumer who is slammed is required to (1) contact the slamming utility to correct the problem, (2) request a change of service provider, (3) wait for appropriate response and correction to their bills, and (4) pay monies to the slamming utility to avoid local service disconnection.

#### **5. Inform Consumer of Switch**

Third party verifiers should be required to mail by postal service a postcard notifying the consumer that service has been changed to the named telephone corporation. The postcard should be mailed not later than three calendar days after the service has been changed. The postcard should have a customer service telephone number that the consumer can call when the

change was not authorized by the subscriber. The postcard should not advertise any goods or services offered by any telecommunications company.

*Rationale:* Consumers should be alerted by a neutral party, as soon as possible regarding a switch in service provider as long as the consumer is liable for charges paid to a slamming utility. This will reduce the amount of time that a consumer unwittingly uses the services of a slamming utility.

**C. Cramming Recommendations**

Staff proposes the following recommendations to eliminate or reduce cramming:

**1. Require Separation of the LOA from any Sweepstakes Inducement**

The Commission should adopt a rule that "when written subscriber solicitations contain a LOA for a change in service provider in combination with other information including, but not limited to, inducements to subscribers to purchase service, the solicitation shall include a separate document whose sole purpose is to explain the nature and extent of the action."

*Rationale:* This rule to prevent slamming, currently exists in P.U. Code 2889.5 and is applicable only to the switching of any service provider, and does not apply to the initiation of product or service billing. This rule would prevent the types of cramming abuse for which the Commission has recently seen an increase. As was once the case in slamming, certain service providers are legally using sweepstakes forms to get phone numbers of consumers; often the forms were filled out by children or friends, not the authorized person of account. The service providers do not verify consumers' desire to be billed for a service and instead used the sweepstakes entry form as an authorization for service. Under this rule, companies could continue to offer cash inducements, such as checks as valid LOAs.

## 2. Require Authorization for All Services

The Commission should adopt a rule stating; "No LEC or CLC shall bill a subscriber for any charge that has not been previously authorized by the subscriber. All charges which have not been validly authorized are void. A repeated attempt to bill unauthorized charges shall result in termination of the billing contract."

Valid authorization by the subscriber requires that:

- (a) The service provider fully describe the service, enumerate any and all charges, and inform the subscriber that the charges will appear on the subscriber's telephone bill, and,
- (b) The service provider bill the subscriber through the telephone bill via an LOA or verbal request. Only a subscriber of account or other authorized person can authorize a service.

*Rationale:* Currently no Commission rule prohibits cramming. Similarly, there is no rule that requires the LECs to discontinue billing services to an entity that practices cramming. Adopting this rule would provide enforcement staff with the ability to more easily take action against both regulated and non-regulated crammers.

In enforcement cases against regulated carriers, staff currently must prove violations of unjust rates (P.U. Code Sections 451) or rates not being in the tariff (P.U. Code Section 532). Non-regulated crammers, such as third party billing agencies and non-regulated service providers, are outside of the Commission's jurisdiction.<sup>19</sup> Under the proposed rule, the non-regulated service providers would not be regulated, but rather, their right to bill through the LEC

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<sup>19</sup> The Commission is unable to require anything of telecommunications companies outside its jurisdiction in an informal complaint or an egregious enforcement action.

would be affected, because violation of the above rule would constitute a basis for the LEC to discontinue the billing contract. A Commission rule on unauthorized billing would benefit consumers as it would give the Commission staff and the LEC a specific standard to enforce.

### **3. Require LECs to Take Proactive Measures**

The LECs should take the lead in establishing complaint thresholds and adopt progressive penalties that would induce the offending provider to become compliant. The LECs should: (1) implement a program which progressively penalizes excessive complaints and adjustments, (2) define clear standards upon which a contract will be rescinded, based on excessive complaints and adjustments; (3) provide refunds to customers who allege a cram, and (4) require billing agents to maintain complaint and adjustment records of their service provider clients and to provide these to the LEC or CLC upon request.

*Rationale:* Adopting this rule would direct the LECs to enforce performance standards applicable to the billing clients through their contracts. Because LECs have the privilege to earn revenues by the sale of billing services to non-utilities, and thus, consumers having to be wary of extraneous rates and charges, the LECs have the responsibility that their billing service customers do not abuse consumers.

**ATTACHMENT A**

**Workshop Agenda  
R.97-08-001/I.97-08-002**

**Moderator: ALJ Bushey**

**Telecom Staff Assistants: Robert Wullenjohn, Richard Fish, Joe McIlvain**

1. **Session I - Billing Issues . 9:00 am to 12 noon.**
  - A. **Technical Overview of Billing Process (LEC Representatives - 5 min)**
  - B. **Role of Billing Aggregators**
  - C. **Local Service Disconnect for Nonpayment of Toll Charges**
  - D. **Currently Pending Legislation (pre-authorization issues)**
  - E. **Role of the LECs (record keeping, problem carrier identification)**
  - F. **"Cure" period - Prohibit LEC Billing**
  - G. **Fictitious Business Names and other identification problems**
  
2. **Session 2 - Unauthorized Transfer 1:00 to 4:00 p.m.**
  - A. **Results of Customer Comments (Greenlining Study)**
  - B. **Benefits of Additional Information To Customers - "federal box"?**
  - C. **Enhanced Enforcement**
  - D. **Ethnic Market Issues**
  - E. **Automatic PIC Freezes**
  - F. **Unique "CIC" codes**

**ATTACHMENT B**

**LIST OF WORKSHOP ATTENDEES**

**March 30<sup>th</sup>, 1998**

**R.97-08-001**

1. Jenny Wong	GTE
2. Sue Miller	GTE
3. Christine Vanskyhock	GTE
4. Jay Trestler	GTE
5. Geoff Grigsby	Sprint
6. Paul Stein	TURN
7. Monica McCrary	CPUC-CSD
8. Fred Patterson	CPUC-CSD
9. Kathryn Fugere	California Telephone
10. Pat Chow	MCI
11. Nikayla Nail	MCI
12. Annette Duff	MCI
13. David Marchant	MCI
14. Greta L. Banks	AT&T
15. Randolph Deutsch	AT&T
16. Ana Martes	Latino Issues Forum/Greenlining Institute
17. Susan Brown	Latino Issues Forum/Greenlining Institute
18. Bob Mazique	PB
19. Sandy McGreevy	PB
20. Carl Oshiro	California Small Business Association
21. Bob Gnaizda	Greenlining Institute
22. Michelle Canas	Latino Issues Forum
23. Susan Brown	Latino Issues Forum
24. Lynn Maack	ORA

## ATTACHMENT C

STATE OF CALIFORNIA

PETE WILSON, Governor

### PUBLIC UTILITIES COMMISSION

505 VAN NESS AVENUE  
SAN FRANCISCO, CA 94102-3298



#### NOTICE OF NON-COMPLIANCE WITH COMMISSION DECISION

March 27, 1998

**To: All Inter-Exchange Carriers which failed to file response to D.98-02-009**

**Re: 3<sup>rd</sup> Party Verification Audit**

Commission Order, D.98-02-009 and an attached questionnaire was mailed to you on February 5<sup>th</sup>, requiring your company to respond to the Director of the Telecommunications Division by March 9<sup>th</sup>. As of March 26, we have not received your reply.

The Commission requires your compliance in responding to the attached questionnaire no later than April 15<sup>th</sup>. Failure to respond to the enclosed questionnaire will result in penalties and eventual revocation of the carrier's certificate of public convenience and necessity by the Commission. Your response should be addressed to:

Jack Leutza  
Telecommunications Division  
California Public Utilities Commission  
505 Van Ness Avenue  
San Francisco, CA 94102-3298

A copy of the response should also be provided to the Commission's Docket Office. Neither of the submittals is a "filing" as defined in the Commission's Rules of Practice and Procedure. As such, "service" to proceeding participants is not required.

If you have any questions, please feel free to contact Robert Wullenjohn, of the Telecommunications Division, at (415) 703-1778.

Sincerely;

Jack Leutza  
Director, Telecommunications Division

## ATTACHMENT D

### P.U. Code Section 2889.5 Compliance Questionnaire

1. Name and address of carrier
2. U. number
3. Does your firm solicit residential customers?
4. If yes, do you have an independent third-party verifier?
5. When did you implement third party verification?
6. What is the name, address and telephone number of the verifier?
7. Is the verifier in any way affiliated with your firm?
8. Does the verifier operate from facilities physically separate from your firm?
9. Are the verification agents compensated by (a) hourly wage, (b) salary, or (c) commission?
10. If the verification are agents compensated by commission, please state the basis of that commission.
11. Please provide transcripts of the first five verifications obtained in August 1997.
12. Does your firm solicit customers by (a) door-to-door sales agents, (b) telemarketers, (c) direct mail, or (d) general advertising?
13. If your firm has used different means of soliciting customers, what is your PIC dispute rate for each type of solicitation?
14. Does your firm accept authorizations to transfer from anyone other than the subscriber?
15. How does you firm confirm that the subscriber is authorizing the change in service?
16. Does your firm solicit business customers?
17. Do you verify business customer transfer? If so, how?
18. What is your firm's practice for handling a customer transfer that has been disputed by the customer?
19. What was your average monthly PIC dispute rate for specific period 1/1/97 to 12/31/97?
20. What was your average monthly PIC dispute rate for 1/1/96 to 12/31/97?
21. What is your practice with regard to employees or sales agents that do not comply with your rules for customer authorization?
22. What information do you use to ascertain whether an employee or sales agent is not in compliance.

**ATTACHMENT D**

**Responses to P.U. Code 2889.5 Compliance Questionnaire**

**Number of Responses**

- 51 \* Post Office Return due to bad address
- 211 \* No response - No PO return
- \* Responses
- 287 \* Survey completed
- 67 \* Survey not completed

Q. 3. Does your firm solicit residential customers?

- 96 \* Yes
- 180 \* No
- 15 \* Casually
- 1 \* No Response
- 38 \* Not Applicable

Q. 4. If yes, do you have an independent third-party verifier?

- 96 \* Yes
- 27 \* No
- 4 \* No Response
- 180 \* Not Applicable

Q. 5. When did you implement third party verification?

- 91 \* Enter date (MM/DD/YY)
- 7 \* No Response
- 208 \* Not Applicable

Q. 6. What is name, address, and telephone number of the verifier?

- 99 \* Enter name, address, telephone number
- 10 \* No Response
- 203 \* Not Applicable

Q. 7. Is the verifier in any way affiliated with your firm?

- 2 \* Yes
- 100 \* No
- 5 \* No Response
- 199 \* Not Applicable

Q. 8. Does the verifier operate from facilities physically separate from you firm?

- 98 \* Yes
- 3 \* No
- 5 \* No Response
- 201 \* Not Applicable

Q. 9. Are the verification agents compensated by A) hourly wage (B) salary (C) commission?

53 \* hourly wage (including per minute of use)

5 \* salary

4 \* commission

37 \* other

6 \* No Response

200 \* Not Applicable

Q. 10. If the verification agents are compensated by commission, please state the basis of that commission.

3 \* fixed amount per transaction

0 \* by contract between agent and verifier

4 \* other

7 \* No Response

288 \* Not Applicable

Q. 11. Please provide transcripts of the first five verifications obtained in August 1997.

35 \* None provided

7 \* Tape

50 \* Paper copies

211 \* Not Applicable

Q. 12. Does your firm solicit customers by (A) door-to-door sales agents (B) telemarketers (C) direct mail (D) general advertising?

62 \* door-to-door sales agents (A)

76 \* telemarketers (B)

68 \* direct mail (C)

69 \* general advertising (D)

21 \* sales representatives (company employees) (E)

48 \* other (F)

12 \* No Response

110 \* Not Applicable

Q. 13. If your firm has used different means of soliciting customers, what is your PIC dispute rate for each type of solicitation?

32 \* %

16 \* number

63 \* None

16 \* other

19 \* No Response

163 \* Not Applicable

Q. 14. Does your firm accept authorizations to transfer from anyone other than the subscriber?

- 24 \* Yes
- 182 \* No
- 5 \* Other
- 9 \* No Response
- 83 \* Not Applicable

Q. 15. How does your firm confirm that the subscriber is authorizing the change in service?

- 56 \* Ask
- 0 \* Don't ask
- 107 \* Written confirmation (such as contract, LOA, etc.)
- 45 \* other
- 13 \* No Response
- 98 \* Not Applicable

Q. 16. Does your firm solicit business customers?

- 190 \* Yes
- 62 \* No
- 3 \* Casually
- 7 \* No Response
- 49 \* Not Applicable

Q. 17 a. Do you verify business customer transfers?

- 180 \* Yes
- 18 \* No
- 10 \* Other
- 12 \* No Response
- 84 \* Not Applicable

Q. 17b. If so, how?

- 123 \* Written confirmation (such as contract, LOA, etc.)
- 31 \* Ask verbally
- 28 \* Same as Residential
- 35 \* other
- 14 \* No Response
- 87 \* Not Applicable

Q. 18. What is your firm's practice for handling a customer transfer that has been disputed by the customer?

- 33 \* Switch back
- 26 \* Switch back at no charge
- 59 \* Switch back at no charge with refund
- 92 \* Other
- 10 \* No Response
- 82 \* Not Applicable

Q. 19. What was your average monthly PIC dispute rate (1/1/97 to 12/31/97)?

- 69 \* %
- 49 \* number
- 81 \* None
- 17 \* No record
- 11 \* other
- 13 \* No Response
- 71 \* Not Applicable

Q. 20. What was your average monthly PIC dispute rate (1/1/96 to 12/31/97)?

- 63 \* %
- 42 \* number
- 83 \* None
- 21 \* No record
- 13 \* other
- 16 \* No Response
- 70 \* Not Applicable

Q. 21a. What is your practice with regard to employees or sales agents that do not comply with your rules for customer authorization?

- 38 \* reprimand
- 5 \* fine
- 156 \* terminate
- 34 \* other
- 14 \* No Response
- 88 \* Not Applicable

Q. 21b. What information do you use to ascertain whether an employee or sales agent is not in compliance?

- 75 \* Customer source (complaint, etc.)
- 14 \* Sales Agents
- 16 \* LEC report
- 101 \* other
- 39 \* No Response
- 86 \* Not Applicable

