

**ARTICLE 20. CONSUMER PROTECTIONS FOR
UNAUTHORIZED CARRIER CHARGES**

Article 20, consisting of R14-2-2001 through R14-2-2011, made by final rulemaking at 10 A.A.R. 2409, effective July 23, 2004 (Supp. 04-2).

R14-2-2001. Definitions

- A. "Commission" means the Arizona Corporation Commission.
- B. "Customer" means the person or entity in whose name service is rendered, as evidenced by the signature on the application or contract for service, or by the receipt or payment of bills regularly issued in their name regardless of the identity of the actual user of service.
- C. "Subscriber" means the Customer identified in the account records of a Telecommunications Company; any person authorized by such Customer to change telecommunications services or to charge services to the account; or any person contractually or otherwise lawfully authorized to represent such Customer.
- D. "Telecommunications Company" means a public service corporation, as defined in the Arizona Constitution, Article 15, § 2, that provides telecommunications services within the state of Arizona and over which the Commission has jurisdiction. The phrase "Telecommunications Company" does not include providers of wireless, cellular, personal communications services, or commercial mobile radio services.
- E. "Unauthorized Charge" ("cramming") means any recurring charge on a Customer's telephone bill that was not authorized or verified in compliance with R14-2-2005. This does not include one-time pay-per-use charges or taxes and other surcharges that have been authorized by law to be passed through to the Customer.

Historical Note

New Section made by final rulemaking at 10 A.A.R. 2409, effective July 23, 2004 (Supp. 04-2).

R14-2-2002. Purpose and Scope

The provisions of this Article shall be interpreted to ensure all Customers in this state are protected from Unauthorized Charges on their bill from a Telecommunications Company.

Historical Note

New Section made by final rulemaking at 10 A.A.R. 2409, effective July 23, 2004 (Supp. 04-2).

R14-2-2003. Application

This Article applies to each Telecommunications Company.

Historical Note

New Section made by final rulemaking at 10 A.A.R. 2409, effective July 23, 2004 (Supp. 04-2).

R14-2-2004. Requirements for Submitting Authorized Charges

- A. A Telecommunications Company shall provide its billing agent with its name, telephone number, and a list with detailed descriptions of the products and services it intends to charge on a Customer's bill so that the billing agent may accurately identify the product or service on the Customer's bill.
- B. A Telecommunications Company or its billing agent shall specify the product or service being billed and all associated charges.
- C. A Telecommunications Company or its billing agent shall provide the Subscriber with a toll-free telephone number the Subscriber may call for billing inquiries.

Historical Note

New Section made by final rulemaking at 10 A.A.R. 2409, effective July 23, 2004 (Supp. 04-2).

R14-2-2005. Authorization Requirements

- A. A Telecommunications Company shall record the date of a service request and shall obtain from the Subscriber requesting a product or service the following:
 1. The name and telephone number of the Customer,
 2. Verification that Subscriber is authorized to order the product or service, and
 3. Explicit Subscriber acknowledgement that the charges will be assessed on the Customer's bill.
- B. A Telecommunications Company shall communicate the following information to a Subscriber requesting a product or service:
 1. An explanation of each product or service offered,
 2. An explanation of all applicable charges,
 3. A description of how the charge will appear on the Customer's bill,
 4. An explanation of how a product or service can be cancelled, and
 5. A toll-free telephone number for Subscriber inquiries.
- C. The authorization required by R14-2-2005(A) and the communications required by R14-2-2005(B) shall be given in all languages used at any point in the sales transaction. At the beginning of any sales transaction, the Telecommunications Company must offer to conduct the transaction in English or Spanish and must comply with the Customer's choice or shall not complete the transaction.
- D. During each contact in which the Telecommunications Company offers to establish residential service or in which a person requests the establishment of residential service, the Telecommunications Company shall inform the subscriber of the cost of "basic local exchange telephone service" as defined in R14-2-1201(6), if provided. A Telecommunications Company shall not use the term "basic" or any other misleading language in describing any product or service. The term "basic" can only be used for a plan that includes only basic local exchange telephone service.
- E. The individual Subscriber authorization record shall be maintained by the Telecommunications Company for 24 months.

Historical Note

New Section made by final rulemaking at 10 A.A.R. 2409, effective July 23, 2004 (Supp. 04-2).

R14-2-2006. Unauthorized Charges

- A. Upon discovery of an Unauthorized Charge or upon notification by a Subscriber of an Unauthorized Charge, the billing Telecommunications Company shall:
 1. Immediately cease charging the Customer for the unauthorized product or service;
 2. Remove the Unauthorized Charge from the Customer's bill within 45 days;
 3. Refund or credit to the Customer all money paid by the Customer at the Customer's option for any Unauthorized Charge. If any Unauthorized Charge is not refunded or credited within two billing cycles, the Telecommunications Company shall pay interest on the amount of any Unauthorized Charges at an annual rate established by the Commission until the Unauthorized Charge is refunded or credited;
 4. Provide the Subscriber all billing records under the control of the Telecommunications Company related to any Unauthorized Charge. The billing records shall be provided within 15 business days of the Subscriber's notification; and
 5. Maintain a record of each Unauthorized Charge of every Customer who has experienced any Unauthorized Charge for 24 months. The record shall include:

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- a. The name of the Telecommunications Company,
 - b. Each affected telephone number,
 - c. The date the Subscriber requested the Unauthorized Charge be removed from the Customer's bill, and
 - d. The date the Customer was refunded or credited the amount that the Customer paid for any Unauthorized Charge.
- B.** After a charge is removed from the Customer's bill, the Telecommunications Company shall not rebill the charge unless one of the following occurs:
- 1. The Subscriber and the Telecommunications Company agree the customer was accurately billed.
 - 2. The Telecommunications Company certifies with supporting documentation to the Subscriber that the charge was authorized pursuant to R14-2-2005.
 - 3. A determination is made pursuant to R14-2-2008 that the charge was authorized.
- C.** Until a charge is reinstated pursuant to subsection (B), a Telecommunications Company shall not:
- 1. Suspend, disconnect, or terminate telecommunications service to a Subscriber who disputes any billing charge pursuant to this Article or for nonpayment of an alleged Unauthorized Charge unless requested by the Subscriber; or
 - 2. File an unfavorable credit report against a Customer who has not paid charges that the Subscriber has alleged were unauthorized.
- D.** The Customer shall remain obligated to pay any charges that are not disputed.
- E.** Each occurrence of cramming an individual account shall constitute a separate violation of this Article, subject to individual enforcement actions and penalties as prescribed herein.

Historical Note

New Section made by final rulemaking at 10 A.A.R. 2409, effective July 23, 2004 (Supp. 04-2).

R14-2-2007. Notice of Subscriber Rights

- A.** A Telecommunications Company shall provide to each of its Subscribers a notice of the Subscriber's rights regarding Unauthorized Charges.
- B.** The notice may be combined with the notice required by R14-2-1908.
- C.** The notice shall include the following:
- 1. The name, address and telephone number where a Subscriber can contact the Telecommunications Company;
 - 2. A statement that a Telecommunications Company is prohibited from adding products and services to a Customer's account without the Subscriber's authorization;
 - 3. A statement that the Telecommunications Company is required to return the service to its original service provisions if an Unauthorized Charge is added to a Customer's account;
 - 4. A statement that the Telecommunications Company shall not charge for returning the Customer to their original service provisions;
 - 5. A statement that the Telecommunications Company must refund or credit, at the Customer's option, to the Customer any amount paid for any Unauthorized Charge. If any Unauthorized Charge is not refunded or credited within two billing cycles, the Telecommunications Company shall pay interest on the amount of any Unauthorized Charges at an annual rate established by the Commission until the Unauthorized Charge is refunded or credited;
 - 6. A statement that a Customer who has been crammed can report the Unauthorized Charge to the Arizona Corporation Commission; and

- 7. The name, address, web site, and toll-free consumer services telephone number of the Arizona Corporation Commission.

D. Distribution, language, and timing of notice.

- 1. A Telecommunications Company shall provide the notice described in this Section to new Customers at the time service is initiated, and upon Subscriber's request.
- 2. A Telecommunications Company that publishes a telephone directory or contracts for publication of a telephone directory, shall arrange for the notice to appear in the white pages of its annual telephone directory.
- 3. A Telecommunications Company with a web site shall display the notice described in this Section on the company's web site.
- 4. The notice of subscriber rights described in this Section shall be written in both English and Spanish.

Historical Note

New Section made by final rulemaking at 10 A.A.R. 2409, effective July 23, 2004 (Supp. 04-2).

R14-2-2008. Informal Complaint Process

- A.** A Subscriber may file an informal complaint within 90 days of receiving notice of an Unauthorized Charge, or, thereafter, upon a showing of good cause. The complaint shall be submitted to the Commission Staff in writing, telephonically or via electronic transmission, and shall include:
- 1. Complainant's name, address, telephone number;
 - 2. The name of the Telecommunications Company that submitted the alleged Unauthorized Charge;
 - 3. The approximate date of the alleged Unauthorized Charge;
 - 4. A statement of facts, and documentation, to support the complainant's allegation;
 - 5. The amount of any disputed charges including the amount already paid; and
 - 6. The specific relief sought.
- B.** The Commission Staff shall:
- 1. Assist the parties in resolving the complaint;
 - 2. Notify the Telecommunications Company of the alleged Unauthorized Charge;
 - 3. Require the Telecommunications Company to provide an initial response within five business days of receipt of notice from the Commission;
 - 4. Require the Telecommunications Company to provide documentation of the Subscriber's new service or product request. If such information is not provided to the Staff within 10 business days of the initial Staff notification, Staff shall presume that an Unauthorized Charge occurred;
 - 5. Advise the Telecommunications Company that it shall provide Staff any additional information requested within 10 business days of Staff's request; and
 - 6. Inform the Telecommunications Company that failure to provide the requested information or a good faith response to Commission Staff within 15 business days shall be deemed an admission to the allegations contained within the request and the Telecommunications Company shall be deemed in violation of the applicable provisions of this Article.
- C.** If the parties do not resolve the matter, the Staff will conduct a review of the informal complaint and related materials to determine if an Unauthorized Charge has occurred, which review shall be completed within 30 days of the Staff's receipt of the informal complaint.
- D.** Upon conclusion of its review, Staff shall render a written summary of its findings and recommendation to all parties.

Staff's written summary is not binding on any party. Any party shall have the right to file a formal complaint with the Commission under A.R.S. § 40-246. Staff's written summary shall not be admissible in the formal complaint proceeding.

Historical Note

New Section made by final rulemaking at 10 A.A.R. 2409, effective July 23, 2004 (Supp. 04-2).

R14-2-2009. Compliance and Enforcement

- A. A Telecommunications Company shall provide a copy of records related to a Subscriber's request for services or products to Commission Staff upon request.
- B. If the Commission finds that a Telecommunications Company is in violation of this Article, the Commission shall order the company to take corrective action as necessary, and the company may be subject to such penalties as are authorized by law. The Commission may sanction a Telecommunications Company in violation of this Article by prohibiting further solicitation of new customers for a specified period, or by revocation of its Certificate of Convenience and Necessity. The Commission may take any other enforcement actions authorized by law.
- C. The Commission Staff shall coordinate its enforcement efforts regarding the prosecution of fraudulent, misleading, deceptive, and anti-competitive business practices with the Arizona Attorney General.

Historical Note

New Section made by final rulemaking at 10 A.A.R. 2409, effective July 23, 2004 (Supp. 04-2).

R14-2-2010. Severability

If any provision of this Article is found to be invalid, it shall be deemed severable from the remainder of this Article and the remaining provisions of this Article shall remain in full force and effect.

Historical Note

New Section made by final rulemaking at 10 A.A.R. 2409, effective July 23, 2004 (Supp. 04-2).

R14-2-2011. Script Submission

- A. Each Telecommunications Company shall file under seal in a docket designated by the Director of the Utilities Division ("Director") a copy of all sales or marketing scripts used by its (or its agent's) sales or customer service workers. For the purposes of this rule, "sales or marketing scripts" means all scripts that involve an offer to sell a product or service or a response to a request for a product or service, including all scripts for unrelated matters that include a prompt for the sales or customer service workers to offer to sell a product or service.
- B. A Telecommunications Company shall make the filing described in R14-2-2011(A) at the following times:
 - 1. 90 days from the day these rules are first published in a Notice of Final Rulemaking in the Arizona Administrative Register;
 - 2. On April 15 of each year;
 - 3. Whenever directed to do so by the Director; and
 - 4. Whenever a material change to a script occurs or a new script is used that is materially different from a script on file with the Director.
- C. The Director may request further information or clarification on any script, and the Telecommunications Company shall respond to the Director's request within 10 days.
- D. The Director may initiate a formal complaint under R14-3-101 through R14-3-113 to review any script. The failure to file such a complaint or request further information or clarification does not constitute approval of the script, and the fact that the

script is on file with the Commission may not be used as evidence that the script is just, reasonable, or not fraudulent.

Historical Note

New Section made by final rulemaking at 10 A.A.R. 2409, effective July 23, 2004 (Supp. 04-2).

ARTICLE 21. CUSTOMER PROPRIETARY NETWORK INFORMATION

R14-2-2101. Application

These rules govern the treatment of Customer Proprietary Network Information (CPNI) for all telecommunications carriers that provide telecommunications service in Arizona. In addition, the Commission adopts, incorporates, and approves as its own 47 CFR 64.2001 through 2009, revised as of September 20, 2002 (and no future amendments), incorporated by reference and copies available from the Commission Office, Legal Division, 1200 West Washington, Phoenix, Arizona 85007 and the United States Government Printing Office, P.O. Box 371975M, Pittsburgh, Pennsylvania 15250-7975. These rules are in addition to the FCC rules and together with the FCC rules govern the release of CPNI in Arizona.

Historical Note

New Section made by final rulemaking at 12 A.A.R. 1547, effective June 19, 2006 (06-2).

R14-2-2102. Definitions

For purposes of this Article, the following definitions apply unless the context otherwise requires:

1. "Affiliate" means a person that (directly or indirectly) owns or controls, is owned or controlled by, or is under common ownership or control with, another person. For purposes of this paragraph, the term "own" means to own an equity interest (or the equivalent thereof) of more than 10 percent.
2. "Communications-related services" means telecommunications services, information services typically provided by telecommunications carriers, and services related to the provision or maintenance of customer premises equipment.
3. A "Customer" of a telecommunications carrier is a person or entity to which the telecommunications carrier is currently providing service.
4. "Customer premise equipment" means equipment employed on the premises of a person (other than a telecommunications carrier) to originate, route, or terminate telecommunications.
5. "Customer proprietary network information (CPNI)" means information that relates to the quantity, technical configuration, type, destination, location, and amount of use of a telecommunications service subscribed to by any customer of a telecommunications carrier, and that is made available to the carrier by the customer solely by virtue of the carrier-customer relationship; and information contained in the bills pertaining to telephone exchange service or telephone toll service received by a customer of a carrier; except that such term does not include subscriber list information. See 47 U.S.C. 222(h)(1) revised 1999 (and no future amendments), incorporated by reference and copies available from the Commission Office, Legal Division, 1200 West Washington, Phoenix, Arizona 85007 and the United States Government Printing Office, P.O. Box 371975M, Pittsburgh, Pennsylvania 15250-7975.
6. "Non-listed Service" means a service that ensures that customers' telephone numbers are not published in the telephone directory but are available through directory assistance.