

28 mobile wireless service or Internet access.

29 (d) "Subscriber" means a corporation, person, or government, or a person acting legally
30 on behalf of a corporation, person, or government who has authorized a charge from a third-party
31 provider of service or merchandise.

32 (e) (i) "Third party" means any person, corporation, partnership, or other entity other than
33 the account holder and the public utility, including aggregators and public utility or nonpublic
34 utility providers of services and merchandise, and includes those entities billing for services or
35 merchandise, and those verifying a subscriber's authorization.

36 (ii) "Third party" does not include h :

36a (a) h an affiliated or subsidiary company of a public utility
37 whose charges the commission determines by rule would be reasonably associated by a subscriber
38 with the type of charges that would appear on that particular public utility's bill h ; OR

38a **(b) CHARGES FROM A PRESUBSCRIBED LOCAL OR LONG DISTANCE**
38b **TELECOMMUNICATIONS CORPORATION OR ITS AFFILIATED OR SUBSIDIARY COMPANY FOR**
38c **LOCAL OR LONG DISTANCE TELEPHONE, DATA, OR WIRELESS SERVICES h .**

39 (2) This section does not apply to h :

39a (a) h telecommunications services that are used, initiated, or
40 requested by the customer, including dial-around services such as 10-10-XXX, 1-900 numbers,
41 directory assistance, operator-assisted calls, acceptance of collect calls, and other casual calling
42 by the customer h ; OR

42a **(b) CHANGES IN TELECOMMUNICATIONS PROVIDERS REGULATED BY SECTION 54-8b-18 h**

43 (3) Pursuant to the provisions of the section, a public utility may not charge an account
44 holder for services the holder never ordered nor knowingly authorized.

45 (4) Each public utility may include in its bills to account holders, billed amounts for
46 authorized services or merchandise from third parties, only in conformance with the following
47 requirements.

48 (a) Each public utility shall ensure that its account holders receive:

49 (i) identification of third-party provider of services or merchandise;

50 (ii) toll-free numbers to enable a subscriber to contact the third party to resolve disputes;

51 (iii) a clear, concise description of services or merchandise being billed;

52 (iv) highlight or identification of each service or merchandise different from prior billing
53 cycle services or merchandise;

54 (v) clear identification of the payment amount needed for each service or merchandise to
55 ensure that any public utility service will continue;

56 (vi) prompt and courteous treatment of all disputed charges; and

57 (vii) notice of the provisions in Subsections (5) and (6).

58 (5) Unless specifically instructed by the account holder, each public utility shall first apply

59 all payments received to the account holder's bill for the public utility's own tariffed utility
60 services. Any remaining credit shall then be allocated proportionally to other charges, unless
61 otherwise specified by the account holder.

62 (6) No public utility may disconnect or threaten disconnection of any account holder's
63 basic utility service for failure to pay third-party charges.

64 (7) Accounts receivable purchased by a public utility from third parties are not to be
65 treated as public utility charges regardless of the service or product upon which the account
66 receivable is based.

67 (8) (a) If an account holder informs the public utility that a third-party service or
68 merchandise charge is neither knowingly used nor authorized, or the charge in whole or part is
69 disputed, the public utility shall:

70 (i) immediately credit the account holder's account for the disputed amount and refer the
71 matter back to the third party for collection; or

72 (ii) suspend the account holder's obligation of payment of the disputed amount until it is
73 determined whether the charge was either knowingly used or authorized.

74 (b) The public utility may not request the account holder to contact the third party to
75 resolve the dispute prior to applying the credit.

76 (c) The disputed charge shall be removed from the public utility's bill to the account holder
77 no later than two billing cycles following the billing cycle during which the complaint or dispute
78 is registered unless it is later determined that the charge was authorized and the account holder is
79 required to pay such charge.

80 (d) The public utility shall inform the account holder of this process and the holder's
81 options immediately upon the holder's first complaint or inquiry.

82 (e) Except as provided in Subsection (8)(c), once the charges have been removed from the
83 account holder's utility bill:

84 (i) the third party may not use the utility bill to rebill the charges or further attempt to
85 collect the charge; and

86 (ii) the public utility may not allow any further collection attempts by the third party to
87 involve the utility bill.

88 (9) (a) If requested by the account holder, each public utility shall provide the account
89 holder with toll-free numbers supplied by the provider of the service or merchandise, so the

90 account holder may contact the third-party supplier of the services or merchandise billed.

91 (b) The public utility responsibility prescribed by Subsection (9)(a) applies through all
92 layers of third parties, including utilities, service providers, merchandise providers, affiliate billing
93 companies, or billing aggregators, and the public utility shall perform due diligence to acquire that
94 information from any provider for whom it bills.

95 (10) A third-party provider of services or merchandise shall not request a public utility to
96 bill its charges unless and until it:

97 (a) has provided to the public utility valid toll-free numbers to enable a subscriber to
98 contact the third-party to resolve any disputed charges;

99 (b) has provided updated toll-free numbers to the public utility upon any change in the
100 numbers; and

101 (c) has received authorization from the subscriber for the service or merchandise through:

102 (i) obtaining the subscriber's written authorization;

103 (ii) having the subscriber's oral authorization verified by an independent verifier; or

104 (iii) any means provided by rule of the commission.

105 (11) If the subscriber is not an individual, an authorization shall be valid only if given by
106 an authorized representative of the subscriber.

107 (12) The written authorization for the service or merchandise shall be signed by the
108 subscriber and shall contain a clear, conspicuous, and unequivocal request by the subscriber for
109 the service or merchandise.

110 (13) The confirmation by a verifier shall, at a minimum:

111 (a) confirm the subscriber's identity with information unique to the customer, unless the
112 customer refuses to provide identifying information, then that fact shall be noted;

113 (b) confirm that the subscriber requests the service or merchandise be provided by the third
114 party; and

115 (c) confirm that the subscriber has the authority to request the service or merchandise be
116 provided by the third party.

117 (14) A verifier shall meet each of the following:

118 (a) any criteria set for verifiers by the commission;

119 (b) not be directly or indirectly managed, controlled, directed, or owned wholly or in part:

120 (i) by the public utility on whose bill the charge will appear, the third-party provider, or

121 their agents that seek to provide the service or merchandise or by any corporation, firm, or person
 122 who directly owns or indirectly manages, controls, directs, or owns more than 5% of the public
 123 utility or third party provider; or

124 (ii) by the marketing entity that seeks to market the third-party provider's service or
 125 merchandise or by any corporation, firm, or person who directly or indirectly manages, controls,
 126 or owns more than 5% of the marketing entity;

127 (c) operate from facilities physically separated from:

128 (i) those facilities of the public utility on whose bill the charge will appear, the third party
 129 or its agents that seek to provide the service or merchandise to the subscriber; or

130 (ii) those facilities of the marketing entity that seeks to market the third-party provider's
 131 service or merchandise to the subscriber; and

132 (d) not derive commissions or compensation based upon the number of authorizations
 133 verified.

134 (15) A verifier that obtains the subscriber's oral verification regarding the change shall
 135 record that verification by obtaining the appropriate verification data.

136 (16) (a) The record verifying a subscriber's request for a third party to provide services or
 137 merchandise shall be available to the subscriber upon request.

138 (b) Information obtained from the subscriber through verification may not be used for any
 139 other purpose.

140 (c) Any intentional unauthorized release of the information in Subsection (16)(b) is
 141 grounds for penalties or other action by the commission or remedies provided by law to the
 142 aggrieved subscriber against the third-party provider, the verifier, their agents, or their employees
 143 who are responsible for the violation.

144 (17) The verification shall occur in the same language as that in which the request was
 145 solicited.

146 (18) Each public utility shall allow account holders to prohibit the public utility from
 147 billing for all or selected third parties for services or merchandise.

148 (19) Each public utility shall maintain monthly records of the number of ~~h~~ [cramming] ~~h~~
 149 complaints about ~~h~~ [third-party service or merchandise that were reported by account holders]

149a **UNAUTHORIZED CHARGES THAT APPEAR ON A PUBLIC UTILITY BILL WHICH SHALL BE**
 149b **AVAILABLE TO THE COMMISSION UPON REQUEST ~~h~~ .**

150 (20) (a) Proceedings for violations of this section may be commenced by request for
 151 agency action filed with the commission by an account holder, a public utility, the Division of

152 Public Utilities, or by the commission on its own motion.

153 (b) The remedies provided by this chapter are not exclusive and are in addition to all other
154 causes of action, remedies, and penalties provided by law.

155 (21) Any public utility, its agents, or a third-party provider of goods or services who
156 violates this section or rules adopted to implement this section shall be subject to the provisions
157 of Sections 54-7-23 through 54-7-29.

158 (22) The division shall have power to seek injunctive relief to stop repeated unauthorized
159 violations of this section by a public utility or a third-party provider of service or merchandise.

160 (23) The commission is granted authority to enforce provisions of this section and
161 implement rules to carry out the requirements of the section.

Legislative Review Note

as of 1-7-00 7:50 AM

A limited legal review of this legislation raises no obvious constitutional or statutory concerns.

Office of Legislative Research and General Counsel