PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Consumer Protection and Safety Division **RESOLUTION UEB-002**
September 18, 2008

R E S O L U T I O N

RESOLUTION UEB-002. Adoption of additional third party verification requirements in Resolution UEB-001, the Commission's Slamming Citation Program.

Summary

On December 18, 2007, the Federal Communications Commission (FCC) adopted Order 07-223, which added new requirements to the rules concerning verification of a consumer's intent to switch carriers contained in 47 CFR 64.1120(c)(3)(iii). In this resolution we adopt those new requirements into our existing Slamming Citation Program.

This resolution modifies Resolution UEB-001, which created the Commission's Slamming Citation Program, that incorporated the federal requirements in 47 CFR 64.1120(c)(3)(iii) into the requirements for the citation program. As a result of the addition of the FCC's new requirements effective July 30, 2008, the following third party verification (TPV) requirements are hereby added to our Slamming Citation Program (UEB-001):

1. Date of the verification;

2. Confirmation that the person on the call understands that a carrier change, not an upgrade to existing services, bill consolidation, or any other misleading description of the transaction, is being authorized;

3. Any description of interLATA or long distance service shall convey that it encompasses both international and state-to-state calls, as well as some intrastate calls where applicable.; and

4. If the subscriber has additional questions for the carrier's sales representative during the verification, the verifier shall indicate to the subscriber that, upon completion of the verification process, the subscriber will have authorized a carrier change.

Background

On August 24, 2006, based on Decision (D.) 06-03-013[1], the Commission approved Resolution UEB-001 adopting a citation program for enforcing compliance with Third Party Verification (TPV) requirements. Resolution UEB-001 authorized the Director of CPSD to serve citations to telecommunications providers subject to the requirements of Public Utilities (PU) Code 2889.5 and the Code of Federal Regulations requirements applicable to third party verifications (47 CFR 64.1120(c)(3)(iii)).

FCC Rules Change Concerning Long Distance Carrier Switching

On January 9, 2008, the FCC released its Fourth Report and Order[2] (FCC Order), adding to the existing requirements concerning verification of a consumer's intent to switch long distance carriers. The FCC finds that these new requirements will: 1) ensure that each verification includes the date, 2) expand the disclosure obligations of third party verifiers when consumers have questions during the verification, and 3) otherwise clarify the required disclosures by verifiers to ensure that consumers better comprehend precisely what service changes they are approving. (FCC Order, p.1.) For those same reasons, and to be consistent with federal rules, we similarly adopt the new requirements into our Slamming Citation program, Resolution UEB-001.

---

[1] On March 2, 2006, the Commission adopted D.06-03-013, Market Rules to Empower Telecommunications Consumers and to Prevent Market Fraud. In its decision, the Commission ordered the Director of CPSD to investigate the feasibility and effectiveness of a citation forfeiture program for violations of the anti-slamming statutes. (Table A, D.06-03-013.)

[2] Fourth Report and Order (FCC 07-223). In the Matter of Implementation of the Subscriber Carrier Selection Changes Provisions of the Telecommunications Act of 1996; Policies and Rules Concerning Unauthorized Changes of Consumers Long Distance Carriers; CC Docket No. 94-129. Adopted December 18, 2007; Released January 9, 2008.

Specifically, the FCC Order amends the existing requirements for content and format of third party verification in 47 CFR 64.1120(c)(3)(iii) as follows (amendments are highlighted):

> Any description of the carrier change transaction by a third party verifier must not be misleading, and all third party verification methods shall elicit, at a minimum: **the date of the verification**; the identity of the subscriber; confirmation that the person on the call is authorized to make the carrier change; confirmation that the person on the call wants to make the carrier change; **confirmation that the person on the call understands that a carrier change, not an upgrade to existing service, bill consolidation, or any other misleading description of the transaction, is being authorized;** the names of the carriers affected by the change (not including the name of the displaced carrier); the telephone numbers to be switched; and the types of service involved (including a brief description of a service about which the subscriber demonstrates confusion regarding the nature of that service). **Except in Hawaii, any description of interLATA or long distance service shall convey that it encompasses both international and state-to-state calls, as well as some intrastate calls where applicable. If the subscriber has additional questions for the carrier's sales representative during the verification, the verifier shall indicate to the subscriber that, upon completion of the verification process, the subscriber will have authorized a carrier change.**[3]

Additional TPV Requirement for CPSD Citation Program

Consistent with the FCC's Order (which became effective July 30, 2008[4]), we modify UEB-001, the Slamming Citation Program, to include the additional requirements for TPV verification. The Director of CPSD, or a designated CPSD staff under the supervision of the Director, shall now serve citations to telecommunications providers subject to the requirements of Resolution UEB-001, as modified by UEB-002. The new requirements are added to UEB-001 section 1(b), as described below (changes are highlighted).

a. Failure by the telecommunications provider to provide to the Commission a third party verification tape (TPV) or other acceptable evidence (e.g., a letter of agency) showing that a change in telecommunications service provider has been made in compliance with Public Utilities Code Section 2889.5; or

b. Failure by the telecommunications provider to verify the specific information below:

[3] FCC Order, p.17.
[4] The new 47 CFR 64.1120(c)(3)(iii), published at 73 FR 13144, March 14, 2008, approved by Office of Management and Budget on July 14, 2008, is effective July 30, 2008.

i. the identity of the subscriber;
ii. confirmation that the person on the call is authorized to make the carrier change;
iii. confirmation that the person on the call wants to make the carrier change;
iv. the names of the carriers affected by the change (not including the name of the displaced carrier);
v. the telephone numbers to be switched;
vi. the types of service involved;
vii. date of the verification;
viii. confirmation that the person on the call understands that a carrier change, not an upgrade to existing services, bill consolidation, or any other misleading description of the transaction, is being authorized;

In addition, carriers shall do the following:

A. Any description of interLATA or long distance service shall convey that it encompasses both international and state-to-state calls, as well as some intrastate calls where applicable; and

B. If the subscriber has additional questions for the carrier's sales representative during the verification, the verifier shall indicate to the subscriber that, upon completion of the verification process, the subscriber will have authorized a carrier change.

Notice

The CPSD draft resolution in this matter was noticed in the Commission's Daily Calendar on August 20, 2008.

Comments

In compliance with PU Code § 311 (g), copies of the resolution were e-mailed on August 19, 2008, to all telecommunications carriers, for whom e-mail was available, informing these parties that this draft resolution is available at the Commission's website, www.cpuc.ca.gov and is available for public comments.

On September 8, 2008, Cox Communications (Cox) submitted comments. Cox requested that CPSD revise the resolution to include subsection (x) as a separate

section in Resolution UEB-002. For clarification purposes, subsections (ix) and (x) have been reformatted above. Now the requirements in 47 CFR 64.1120(c)(3)(iii) relating to subsections (ix) and (x) are in a separate paragraph.

THEREFORE, IT IS ORDERED that:

1. Resolution UEB-001 is hereby modified to include the additional third party verification requirements described above.

2. This Resolution is effective today.

I hereby certify that this Resolution was adopted by the Public Utilities Commission at its regular meeting on September 18, 2008. The following Commissioners approved it:

_____

PAUL CLANON
Executive Director