

ATTACHMENT A

Revised General Order 168, Part 4

California Telephone Corporation Billing Rules

1. Applicability:

These rules apply to all Billing Telephone Corporations and Billing Aggregators and specify the responsibilities and procedures that must be followed to address and report cramming-related issues. Cramming occurs when an unauthorized charge is placed on a Subscriber's telephone bill.

These rules supersede the rules adopted in Decision (D.) 00-03-020, as modified by D.00-11-015, and replace General Order 168, Part 4, adopted in D.06-03-013. Compliance with these rules does not relieve Billing Telephone Corporations of other obligations they may have under their tariffs, other Commission General Orders and decisions, FCC orders, and state and federal statutes.

These rules shall not be interpreted to create any new private right of action, to abridge or alter a right of action under any other state or federal law, or to create liability that would not exist absent the foregoing rules.

2. Definitions:

2.1. Billing Agents: Any entity which provides billing services for Service Providers directly or indirectly through a Billing Telephone Corporation.

2.2. Complaint: Any written or oral communication from a Subscriber alleging that an unauthorized charge was included in the Billing Telephone Corporation's bill to the Subscriber.

- 2.3. Service Provider:** A person or entity, other than a Billing Telephone Corporation, that originates the charge or charges that are billed to the Subscriber of the Billing Telephone Corporation.
- 2.4. Billing Telephone Corporation:** A telephone corporation that bills a Subscriber for products and services.
- 2.5. Telephone Corporation:** Any telephone corporation (as defined in Pub. Util. Code § 234) operating within California. This term includes resellers and wireless telephone service providers.
- 2.6. Unauthorized Charge:** Any charge placed upon a Subscriber's telephone bill for a service or goods that the Subscriber did not agree to purchase, including any charges that resulted from false, misleading, or deceptive representations. Charges that relate to a change in a subscriber's selection of a provider of telecommunications service are excluded from these rules and are subject to Part 3 (Rules Governing Slamming Complaints) of this General Order.
- 2.7. Subscriber:** Either one of the following:
- (1) The person or entity identified in the account records of a carrier as responsible for payment of the telephone bill;
 - (2) Any person authorized by such party to charge services to the account;
 - (3) Any person lawfully in possession of a wireless handset where the subscriber of record, after being fully informed of the optional nature of this feature and the associated responsibilities, has authorized the Billing Telephone Corporation to place third-party charges on the Subscriber's bill for the line serving the handset. This provision does not relieve the subscriber of any obligation to under their service agreement to promptly report a lost or stolen wireless handset to the Billing Telephone Corporation.
- 2.8. Investigation:** An inquiry conducted by (i) the person or entity from which the disputed charge originated, (ii) a Billing Telephone Corporation, (iii) the Commission, or (iv) any other

relevant government agency, such as the District Attorney's office in the Subscriber's county or the State Attorney General.

3. Authorization Required:

Billing Telephone Corporations shall only place charges that have been authorized by the Subscriber on the Subscriber's telephone bill. All charges billed without Subscriber authorization are unlawful.

All disputed charges for which no verification of Subscriber authorization is available are subject to a rebuttable presumption that the charges are unauthorized. A Billing Telephone Corporation may establish that the Subscriber authorized the charge by (i) providing a record of affirmative authorization from the Service Provider, (ii) a demonstrated pattern of knowledgeable past use, or (iii) other persuasive evidence of authorization. With regard to direct dialed telephone services, evidence that a call was dialed is prima facie evidence of authorization. This presumption can be rebutted with evidence that the call was not authorized.

4. Billing for Authorized Charges Only:

Billing Telephone Corporations shall bill Subscribers only for authorized charges. Billing Telephone Corporations shall adopt protocols which prohibit Billing Agents and Service Providers from submitting, directly or indirectly, charges for billing through a Billing Telephone Company that the Subscriber has not authorized. Billing Telephone Corporations must monitor or cause to be monitored, either directly or through a Billing Agent, or other entity, each Service Provider's continuing compliance with this requirement. Such monitoring shall include review of the Service Provider's marketing materials, scripts, customer verification records, or other such

information as may be necessary to demonstrate that the Service Provider is obtaining valid Subscriber authorizations.

5. Responsibilities of Billing Telephone Corporations:

The Billing Telephone Corporation bears ultimate responsibility for all items presented in a Subscriber's bill and must take the following measures to ensure that only authorized charges from lawful Billing Agents and Service Providers are included in the bill. Prior to approving a Service Provider or Billing Agent for the provision of billing services, the Billing Telephone Corporation shall directly or through another entity conduct a reasonable inquiry of the Service Provider's or Billing Agent's history of violations of state or federal law or rules relating to consumer protection and current ability to operate lawfully.

At service initiation, all Billing Telephone Corporations shall disclose to Subscribers that the Billing Telephone Corporation has opted to provide billing and collection services to Third Parties and that such charges may be placed on the Subscriber's bill, absent action by the Subscriber.

Wireless Billing Telephone Corporations shall explain at service initiation in clear and concise written terms that the Subscriber's line is open to charges from third-party Service Providers and that the Subscriber has the option to block these charges. The Billing Telephone Corporation shall not charge for blocking and must allow Subscribers to add or remove this feature quickly and easily. Billing Telephone Corporations must remind Subscribers in writing no less than once each calendar year that third-party charges may be placed on the bill and of the option to block such charges at anytime and at no additional cost. The Billing Telephone Corporation shall explain the

blocking option in neutral terms and shall not attempt to influence the Subscriber's decision.

For wireline Billing Telephone Corporations, this option to block third-party services shall not extend to any services they are required by law to provide, such as the option to purchase long distance services from a competitor, or services or products offered by their affiliates.

The Billing Telephone Corporation has an affirmative duty to investigate Subscriber allegations of unauthorized billings, and where there are reasonable grounds of concern that a pattern of unauthorized charges may have occurred, to take the initiative to determine whether other Subscribers may have been subjected to unauthorized charges. The Billing Telephone Corporation shall resolve all Subscriber complaints of unauthorized charges as required in Rule 8, Resolution. If a Subscriber contacts the Billing Telephone Corporation to dispute a billed item from a Service Provider, the Billing Telephone Corporation must promptly address and resolve the dispute without deflecting the Subscriber to the alleged Service Provider. Except as allowed under these rules, the Billing Telephone Corporation shall not state or imply the law or regulations require it to provide billing services to third parties.

6. Monitoring of Subscriber Billings:

Each Billing Telephone Corporation is responsible for monitoring the billings it controls for the purpose of preventing and detecting unauthorized charges, and for the prompt termination of billing services to Billing Agents and Service Providers that present unauthorized charges. Each Billing Telephone Corporation shall have in place and comply with a protocol for

identifying unauthorized charges and suspending or terminating billing services to any Billing Agent or Service Provider that has submitted unauthorized charges.

7. Nonpayment of Charges During an Investigation:

While a complaint investigation is pending, the Subscriber shall not be required to pay the disputed charge or any associated late charges or penalties; the charge may not be sent to collection; and no adverse credit report may be made based on non-payment of that charge. Pursuant to Pub. Util. Code § 2889.9(g), Billing Telephone Corporations, Billing Agents and Service Providers shall provide all requested information and shall cooperate fully with the Commission's staff in any investigation and prosecution.

1. Resolution:

If a Billing Telephone Corporation or Billing Agent receives a complaint that the Subscriber did not authorize the purchase of the product or service associated with a charge, the Billing Telephone Corporation or Billing Agent, whichever is the recipient of the complaint, not later than 30 days from the date on which the complaint is received, shall either (i) verify and advise the Subscriber of authorization of the disputed charge or (ii) credit the disputed charge and any associated late charges or penalties to the Subscriber's bill, and offer the option of blocking all future third party billings at no charge as set forth in Rule 5.

2. Other Available Rights:

Nothing herein shall prevent a Subscriber from exercising his or her other rights. The Billing Telephone Corporation shall also notify the Service Provider of any credits issued.

3. Record Retention for Refunds:

The Billing Telephone Corporation is ultimately responsible for refunding all unauthorized charges collected from its Subscribers, including those Subscribers who may have mistakenly paid the unauthorized charges and not requested a refund. Every Billing Telephone Corporation and Billing Agent shall maintain accurate and up-to-date records of all billings and Service Providers sufficient to demonstrate compliance with these rules and to facilitate customer refunds. Such records shall be retained for no less than twenty-four months.

In order to enable refunds to Subscribers, Billing Telephone Corporations and Billing Agents must retain records containing the following information:

- a. the Subscriber name;
- b. the Subscriber telephone number;
- c. the name of the Service Provider responsible for the charge complained about;
- d. the name of the Billing Agent(s), if any;
- e. the amount of the alleged unauthorized charge and the date the charge was incurred and billed;
- f. a description of the product or service billed;
- g. for Billing Agents, the total dollars billed and total amount refunded for each Service Provider; for Billing Telephone Corporations, the total dollars billed and total dollars

refunded for each Service Provider for which the Billing Telephone Company directly bills and each Billing Agent; and

- h. for Billing Agents, the total number of working telephone numbers or purchases billed by each Service Provider; for Billing Telephone Corporations, the total number of working telephone numbers or purchases billed by each Service Provider for which the Billing Telephone Corporation directly bills and each Billing Agent. Flexible Compliance Option: Billing Telephone Corporations and Billing Agents may also elect to maintain records that meet the Commission's standard of sufficient information to enable refunds to customers but do not include each item listed above.

4. Reporting Requirements

11.1. All wireless Billing Telephone Corporations shall create a calendar month summary report every quarter listing refunds made to Subscribers with California area codes for charges originated by Service Providers. The report of refunds shall be summarized by Service Provider and contain the following information:

- a. Name of Service Provider
- b. Name of Billing Agent (if any)
- c. Description of service provided
- d. Total number of purchases by Subscribers
- e. Total amount billed by the Billing Telephone Corporation on behalf of the Service Provider
- f. Total number refunds to Subscribers
- g. Total amount refunded by the Billing Telephone Corporation

The Report of Refunds shall be submitted to the Director of the Commission's Consumer Protection and Safety Division pursuant to the following schedule:

- Report for January, February, and March due no later than April 30th;
- Report for April, May and June due no later than July 31st;
- Report for July, August and September due no later than October 31st; and
- Report for October, November, and December due no later than January 31st of the following year.

11.2. All wireless Billing Telephone Corporations shall create a calendar month summary report every quarter listing all third party services that have been suspended or terminated. These services shall include, but are not limited to, Premium short messaging service (SMS) campaigns. The report of suspensions and terminations shall not include services that are complete or otherwise expired and may be based on national data. The report of suspensions and terminations shall be summarized by Service Provider and contain the following information:

- a. Name and contact information of Service Provider
- b. Description of service that was suspended or terminated
- c. Whether service was suspended or terminated
- d. Reason for suspension or termination. If the service is suspended, the date or conditions for reinstatement should be included.

The Report of Suspensions and Terminations shall be submitted to the Director of the Commission's Consumer Protection and Safety Division pursuant to the following schedule:

- Report for January, February, and March due no later than April 30th;
- Report for April, May and June due no later than July 31st;
- Report for July, August and September due no later than October 31st; and
- Report for October, November, and December due no later than January 31st of the following year.

11.3. All wireline Billing Telephone Corporations and their Billing Agents shall create a calendar month summary report which shall include the following information:

- a. the total number of consumer complaints received each month for each Service Provider and Billing Agent;
- b. Billing Telephone Corporations shall report the name, address, and telephone number of each entity receiving complaints, excluding Billing Agents;
- c. the total number of working telephone numbers billed for each entity for which complaints were received;
- d. for Billing Agents, the total number of subscribers billed by each Service Provider for which complaints were received; for Billing Telephone Corporations, the total number of Subscribers billed by each Service Provider for which the Billing Telephone Corporation directly bills and each billing agent;
- e. for Billing Agents, the total dollars billed by each Service Provider; for Billing Telephone Corporation, the total dollars billed by each Service Provider for which the

Billing Telephone Corporation directly bills and each Billing Agent.

The Report of Consumer Complaints shall be submitted to the Director of the Commission's Consumer Protection and Safety Division pursuant to the following schedule:

- Report for January, February, and March due no later than April 30th;
- Report for April, May and June due no later than July 31st;
- Report for July, August and September due no later than October 31st; and
- Report for October, November, and December due no later than January 31st of the following year.

If no complaints exist, in lieu of this report, a letter shall be sent to the Director of the Consumer Protection and Safety Division affirmatively stating that no complaints exist for the quarter.

11.4. If a Billing Telephone Corporation terminates a Billing Agent or Service Provider for any reason, it shall notify the Director of the Commission's Consumer Protection and Safety Division within 10 business days of the termination date. The notification shall include the identity of the Service Provider or Billing Agent and any principals and the reason(s) for the termination.

11.5. All Billing Telephone Corporations shall submit a report to the Director of the Commission's Consumer Protection and Safety Division once a year that documents the means offered to Subscribers to restrict or otherwise block third-party billing. The report shall

contain copies of consumer information and describe the Billing Telephone Corporation's actions to publicize the availability of third-party blocking.

11.6. Exemptions from Reporting Requirement

The following types of Billing Telephone Corporations may by letter request that the Director of the Consumer Protection and Safety Division suspend or modify their obligation to file the Report of Refunds and the Report of Suspensions and Terminations:

- a. Carriers offering wireless services through prepaid or pay in advance methods.
- b. Carriers that provide service only to business or wholesale customers.

The letter request must demonstrate that the specific Billing Telephone Corporation provides the types of services specified and is in compliance with these rules, and that the filing of the report(s) is not necessary to protect Subscribers. The letter should be signed and verified in accordance with Rule 2.4 of the Commission's Rules of Practice and Procedure. Once an exemption is granted, a Billing Telephone Corporation shall file an annual certification or letter affirming that continued exemption is warranted. The annual certification or letter shall be signed and verified in accordance with Rule 2.4 of the Commission's Rules of Practice and Procedure.

The Director of the Consumer Protection and Safety Division may grant or deny, in whole or in part, or apply such conditions as may be necessary to protect Subscribers in response to the letter request. The

Director of the Consumer Protection and Safety Division may also revoke the exemption for good cause.

5. Ongoing Collaboration With Staff:

Representatives from the Consumer Protection and Safety Division and the Telecommunications Division shall meet at least annually with all wireless Billing Telephone Corporations who offer third-party services to their customers to discuss recent developments in the wireless industry regarding cramming issues and any Commission concerns regarding cramming.

6. Consumer Education:

All Billing Telephone Corporations who offer third-party billing and collection services shall cooperate with the Telecommunications Division and the Consumer Protection and Safety Division and participate in meetings and workshops for the purpose of developing materials to educate consumers on how to avoid having unauthorized charges placed on bills. The workshop, shall not only develop content for the CalPhoneInfo web site maintained by the Commission, but also shall discuss actions taken by the Billing Telephone Corporations to inform consumers of the ability to block third-party services and their related charges.

7. Effect of Failure to Supply Reports:

Any Billing Telephone Corporation that fails to submit its reports in a complete and timely fashion is subject to citation by the Director of the Consumer Protection and Safety Division as follows:

- a. Up to 30 days late, a citation requiring payment of \$500 to the General Fund,

- b. 30 to 60 days late, a citation requiring payment of \$5,000 to the General Fund, and
- c. No less than 10 days before issuing a citation, the Director shall give the Billing Telephone Corporation or Billing Agent notice of the impending citation and an opportunity to submit the report.

In addition to the above-listed citations, any Billing Telephone Corporation failing to timely supply the required reports is subject to a Commission decision or resolution taking such further actions as may be necessary to protect the public interest.

8. Actions Based on Reported Information:

The Consumer Protection and Safety Division may request that a Billing Telephone Corporation or Billing Agent provide further information concerning a Service Provider. This requested information may include, but is not limited to, the Service Provider's contact information, Subscriber name and telephone number, and the amount of the alleged unauthorized charge. The Billing Telephone Corporation and Billing Agents shall provide all requested information within a reasonable period and shall cooperate fully with the Commission's staff in any investigation and prosecution.

The Consumer Protection and Safety Division, in consultation with the Communications Division, may convene such industry-wide or carrier-specific meetings or workshops as may be necessary to facilitate compliance with these rules and other law and regulations.

As provided in § 2889.9(b), the Commission's remedial statutory authority over public utilities, including the potential for fines up to \$20,000 per violation, extends to all Service Providers and Billing Agents using the

billing services of Billing Telephone Corporations. Billing Agents and Service Providers, like Billing Telephone Corporations, are subject to such remedial directives as the Commission finds necessary to protect the public interest.

(END OF ATTACHMENT A)