

**BEFORE THE  
FEDERAL COMMUNICATIONS COMMISSION  
WASHINGTON D.C. 20554**

In the Matter of

Empowering Consumers to Prevent and Detect Billing for Unauthorized Charges (“Cramming”)	)	CG Docket No. 11-116
	)	
Consumer Information and Disclosure	)	CG Docket No. 09-158
	)	
<u>Truth-in-Billing and Billing Format</u>	)	CC Docket No. 98-170

**COMMENTS OF THE  
MICHIGAN PUBLIC SERVICE COMMISSION**

On April 27, 2012, the Federal Communications Commission (FCC) adopted and released a Report and Order in the above-captioned proceedings regarding unauthorized billing to consumers’ telephone accounts (cramming). *Empowering Consumers to Prevent and Detect Billing for Unauthorized Charges (“Cramming”); Consumer Information and Disclosure; Truth-in-Billing and Billing Format*, CG Docket Nos. 11-116 and 09-158, CC Docket 98-170, Report and Order and Further Notice for Proposed Rulemaking, FCC 12-42, April 27, 2012 (Report and Order). In the Report and Order, the FCC directed carriers to adopt several practices to reduce cramming. See Appendix A of the Report and Order. Simultaneously with the Report and Order, the FCC issued a Further Notice of Proposed Rulemaking (FNPRM) in the same proceedings seeking comment on whether the FCC should take additional steps to reduce cramming by prohibiting all or most third-party charges from being placed on telephone bills or requiring carriers to obtain a

consumer's affirmative consent before placing third-party charges on their own bills to consumers (*i.e.* "opt-in"). The comment deadline is June 25, 2012.

The Michigan Public Service Commission (MPSC) offers the following comments on specific questions and concepts discussed in the FNPRM. The MPSC's comments are formatted to coincide with the numbered paragraphs in the FNPRM, and the MPSC reserves the right to discuss additional questions and topics from the FNPRM not addressed herein during the reply comment period.

### **Introduction**

Historically, cramming has ranked high among Michigan consumers' telecommunications complaints. In fact, cramming was the fourth highest telecommunications complaint received by the MPSC from Michigan consumers in 2009 and 2010. In 2009, cramming represented 18 percent of the total telecommunications complaints received. In 2010, cramming represented approximately 12 percent of the total telecommunications complaints.

Cramming is a violation of the Michigan Telecommunication Act. MCL 484.2507. Although the MPSC has a formal complaint process where a consumer can request an administrative hearing to resolve his/her cramming complaint, the MPSC believes that the best way to address cramming is to prevent it from happening in the first place.

### **Comments**

1. As a compromise to prohibiting all third-party billing, the MPSC supports an "opt-in" requirement for not just wireline service, but also

interconnected Voice over Internet Protocol (VoIP) and Commercial Mobile Radio Service (CMRS) carriers. An “opt-in” requirement would obligate carriers to obtain a consumer's affirmative consent before placing third-party charges on their own bills to consumers. For example, carriers could ask new customers if they want to be able to receive billing from third parties when they sign-up for service. Existing customers could consent to third-party billing through the carrier’s website, by calling the carrier or by completing a form mailed to the customer.

2. The MPSC supports stronger measures to deter the widespread problem of cramming such as requiring carriers to obtain a consumer’s affirmative consent before placing third-party charges on their own bills to consumers. The MPSC believes this requirement should be applied at the federal level to wireline, VoIP, and CMRS bills.

The MPSC believes that interconnected VoIP and CMRS service providers should be subject to the same cramming requirements on the federal level as wireline carriers. Section 313 of the Michigan Telecommunications Act recognizes VoIP and wireless service providers as alternative providers of a comparable wireline voice service for purposes of allowing a wireline carrier to discontinue service in the area when these other services are available. MCL 484.2313.

Specifically, Sec. 313(1) provides that:

A telecommunication provider that provides either basic local exchange or toll service, or both, shall not discontinue either service to an exchange unless 1 or more alternative providers for toll service, or 2 or more alternative providers for basic local exchange service, are furnishing a comparable voice service to the customers in the exchange. A comparable voice service includes any 2-way voice service offered through any form of

technology that is capable of placing and receiving calls from a provider of basic local exchange service, including voice over internet protocol services and wireless services. [MCL 484.2313(1)].

As of December 31, 2010, there were over 1,240,000 VoIP subscribers in Michigan. See Federal Communications Commission, Industry Analysis and Technology Division, Wireline Competition Bureau, *Local Telephone Competition: Status as of December 31, 2010*, October 2011 at [http://hraunfoss.fcc.gov/edocs\\_public/attachmatch/DOC-310264A1.pdf](http://hraunfoss.fcc.gov/edocs_public/attachmatch/DOC-310264A1.pdf). In addition, according to the FCC's report on *Local Telephone Competition: Status as of December 31, 2010*, there were approximately 8,861,000 mobile wireless telephone subscribers in Michigan. The number of wireless subscribers in Michigan is more than double the number of wireline subscribers. Consequently, the MPSC believes it is important for the FCC to extend effective consumer protections to wireless customers.

3. Due to the significant number of cramming complaints, both on a statewide and national level, an “opt-in” approach is certainly warranted. The MPSC believes that the “opt in” approach should be available for existing and new customers. An opt-in requirement should apply to all third-party charges, including telecommunications services. Existing and new customers would benefit from an “opt-in” mechanism that covers both telecommunications and non-telecommunications services.

4. The MPSC believes that the FCC should adopt a method in which customers could “opt in” to billing by specific carriers.

5. Customers should be given the option to “opt in” to billing by specific carriers when they sign-up for service. Existing customers should be given the option to “opt in” to billing by specific carriers through the carrier’s website, by calling the carrier or by completing a form mailed to the customer.

6. The MPSC has no comments on this section.

7. The MPSC supports that carriers inform consumers of their “opt-in” options at the point of sale, during online sign-up procedures, on the carriers’ websites, and in in-store advertising. Each monthly bill should advise the customer of the carriers from which they currently can receive billing.

8. Telecommunication carriers should be required to remove disputed charges from the customer’s bill when the customer reports that a third-party charge is unauthorized. Telecommunications carriers should be required to recourse the charges to the third-party vendor or billing company without further question to the customer. Once the third-party vendor or billing company is advised of the disputed charges, they then can choose to bill the customer directly.

9. As mentioned in #2 above, the MPSC believes that interconnected VoIP and wireless service providers should be subject to the same cramming requirements as wireline carriers.

10. The MPSC has no comments on this section.

11. The MPSC has no comments on this section.

## **Conclusion**

The MPSC believes that the FCC can reduce the incidence of unauthorized billing on consumers' telephone accounts through the implementation of the aforementioned requirements. The MPSC appreciates the opportunity to comment as the FCC reviews this topic. The MPSC looks forward to reviewing the comments of the other parties in this proceeding and will continue to participate by filing reply comments to the extent that they add to the discussion of how to best address unauthorized billing to consumers' telephone accounts in today's telecommunications marketplace.

Respectfully submitted,

**MICHIGAN PUBLIC SERVICE COMMISSION**

Anne M. Uitvlugt (P71641)  
Assistant Attorney General  
Public Service Division  
6545 Mercantile Way, Suite 15  
Lansing, MI 48911  
Telephone: (517) 241-6680

Dated: June 25, 2012