



LEGISLATIVE HISTORY CHECKLIST

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LAWS OF: 1998

CHAPTER:82

NJSA:56:8-86

"Telecommunications services -- changing providers"

BILL NO: S1073 (Substituted for ACS for A2082/A860)

SPONSOR(S): Cardinale and Singer

DATE INTRODUCED: May 18, 1998

COMMITTEE:

ASSEMBLY: ~~~~

SENATE: Transportation

AMENDED DURING PASSAGE:Yes

DATE OF PASSAGE:

ASSEMBLY: June 29, 1998

SENATE: June 29, 1998

DATE OF APPROVAL: August 24, 1998

THE FOLLOWING ARE ATTACHED IF AVAILABLE:

FINAL TEXT OF BILL: Senate Committee Substitute (1R) enacted
(Amendments during passage denoted by superscript numbers)

S1073

SPONSORS STATEMENT: *Yes* (Begins on page 4 of original bill)

COMMITTEE STATEMENT:

ASSEMBLY:*No*

SENATE:*Yes*

FLOOR AMENDMENT STATEMENTS:*Yes*

LEGISLATIVE FISCAL ESTIMATE: *No*

ACS for A2082/A860

TEXT OF BILL 2nd Reprint: *Yes*

SPONSORS STATEMENT: *No*

COMMITTEE STATEMENT:

ASSEMBLY: *Yes*

SENATE: *No*

FLOOR AMENDMENT STATEMENTS: *Yes*

6-18-98

6-25-98

LEGISLATIVE FISCAL ESTIMATE: *No*

A2082

SPONSORS STATEMENT: *Yes* (Begins on page 3 of original bill)

COMMITTEE STATEMENT:

ASSEMBLY:*No*

SENATE:*No*

FLOOR AMENDMENT STATEMENTS: *No*

LEGISLATIVE FISCAL ESTIMATE: *No*

A860

SPONSORS STATEMENT: *Yes* (Begins on page 2 of original bill)

COMMITTEE STATEMENT:

ASSEMBLY:*No*

SENATE:*No*

FLOOR AMENDMENT STATEMENTS: *No*

LEGISLATIVE FISCAL ESTIMATE: *No*

VETO MESSAGE: *No*

GOVERNOR'S PRESS RELEASE ON SIGNING: *Yes*

THE FOLLOWING WERE PRINTED:

*To check for circulating copies contact New Jersey State Government Publications at the State Library
(609) 278-2640 ext 102 or refdesk@njstatelib.org*

REPORTS: *No*

HEARINGS: *No*

NEWSPAPER ARTICLES:

"State bars phone companies from unauthorized switches," 8-25-98, Newark Star Ledger, p.18.

"Whitman signs measure to cut phone slamming," 8-25-98, Asbury Park Press, p. A3.

California Statute referred to in statements: [Public Utilities Code, Sec. 2889.5](#).

[First Reprint]

SENATE COMMITTEE SUBSTITUTE FOR
SENATE, No. 1073

STATE OF NEW JERSEY
208th LEGISLATURE

ADOPTED JUNE 22, 1998

Sponsored by:

Senator GERALD CARDINALE

District 39 (Bergen)

Senator ROBERT W. SINGER

District 30 (Burlington, Monmouth and Ocean)

Senator PETER A. INVERSO

District 14 (Mercer and Middlesex)

Co-Sponsored by:

**Senator Baer, Assemblywoman Heck, Assemblyman O'Toole,
Assemblywoman Farragher, Assemblymen Corodemus, DiGaetano,
Assemblywoman Murphy, Assemblymen Caraballo, Geist, Stuhltrager,
Zecker, Cohen, Wisniewski, Impreveduto, Luongo, Gusciora and
Thompson**

SYNOPSIS

Establishes procedures for authorizing changes in telecommunications service providers.

CURRENT VERSION OF TEXT

As amended by the General Assembly on June 29, 1998.

(Sponsorship Updated As Of: 6/30/1998)

1 AN ACT concerning changes in telecommunications service providers
2 and supplementing P.L.1960, c.39 (C.56:8-1 et seq.).

3

4 **BE IT ENACTED** by the Senate and General Assembly of the State of
5 New Jersey:

6

7 1. As used in this act:

8 "Board" means the Board of Public Utilities.

9 "Director" means the Director of the Division of Consumer Affairs
10 in the Department of Law and Public Safety.

11 "Telecommunications service provider" means any individual, firm,
12 joint venture, partnership, corporation, association, public utility,
13 cooperative association, joint stock association and includes any
14 trustee, receiver, assignee, representative, provider of intrastate,
15 interLATA, intraLATA or local exchange telecommunications service
16 to an end-use customer.

17 "Service for which there are multiple providers" means a service
18 for which customers have the ability to subscribe or select from more
19 than one telecommunications service provider.

20

21 2. No telecommunications service provider, or any person, firm or
22 corporation acting as an agent or representative on behalf of a
23 telecommunications service provider, shall, on behalf of a customer,
24 make any change or direct a different telecommunications service
25 provider to make any change in a provider of a telecommunications
26 service for which there are multiple providers, unless the provider,
27 agent or representative complies with authorization and confirmation
28 procedures established by the board and by federal law and rules. In
29 construing and enforcing the provisions of this section, the act of any
30 person, firm or corporation acting as agent or representative acting on
31 behalf of a telecommunications service provider within the parameters
32 of the working agreement set forth by the telecommunications service
33 provider shall be deemed to be the act of that telecommunications
34 service provider.

35

36 3. No telecommunications service provider or any person, firm or
37 corporation acting as an agent or representative on behalf of a
38 telecommunications service provider, shall, on behalf of a customer,
39 fail to make any change in a provider of a telecommunications service
40 for which there are multiple providers when such change order has
41 been received in a manner that complies with federal and State rules
42 and regulations. All such change orders shall be properly processed

EXPLANATION - Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and intended to be omitted in the law.

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹ Assembly floor amendments adopted June 29, 1998.

1 to assure that the order is completed and service will be provided by
2 the new telecommunications service provider of choice within 30
3 business days of receipt of the compliant change order, which may be
4 extended for good cause by the board for an additional 30-day period,
5 ¹【or within such other time period as unless otherwise¹ agreed to by
6 the customer, or as specified by rule or order of the board, or as
7 agreed to by the telecommunications service providers involved in the
8 change, or by federal law or rule. ¹【The provisions of this act shall
9 not apply to the initial installation of telephone service by a local
10 exchange telecommunications carrier.】¹

11

12 4. The board, in consultation with the director, shall adopt rules
13 and regulations relating to changes in telecommunications service
14 providers that are consistent with federal law and which, among other
15 requirements, shall establish procedures for a customer to confirm a
16 change in a telecommunications service provider made by another
17 telecommunications service provider on behalf of the customer,
18 establish procedures by which the new telecommunications service
19 provider shall notify a customer of a change in a telecommunications
20 service provider, and set forth methods for enforcing those rules and
21 regulations.

22

23 5. When an authorized change in a telecommunications service
24 provider is made, the new telecommunications service provider shall
25 be responsible for notifying the customer of the change within 30 days
26 in the manner determined by the board pursuant to section 4 of this
27 act. In addition, any bill for intrastate, interLATA, intraLATA or local
28 exchange service shall contain the name and telephone number of each
29 telecommunications service provider for which billing is provided, and
30 any other information deemed applicable by the telecommunications
31 service provider.

32

33 6. A telecommunications service provider who is determined by
34 the board, after notice and opportunity to be heard, to have willfully
35 or intentionally violated any provision of this act or any rule,
36 regulation or order adopted pursuant hereto or to have violated any
37 federal law and rules relating to changes in telecommunications service
38 providers applicable to intrastate service shall be liable to a civil
39 penalty not to exceed \$7,500 for a first violation and not to exceed
40 \$15,000 for each subsequent violation associated with a specific access
41 line within the State. All moneys recovered from an administrative
42 penalty imposed pursuant to this section shall be paid into the State
43 Treasury to the credit of the General Fund.

44

45 7. This act shall take effect on the first day of the third month
46 following enactment.

SENATE, No. 1073

STATE OF NEW JERSEY
208th LEGISLATURE

INTRODUCED MAY 18, 1998

Sponsored by:

Senator GERALD CARDINALE

District 39 (Bergen)

Senator ROBERT W. SINGER

District 30 (Burlington, Monmouth and Ocean)

SYNOPSIS

Requires telecommunications companies to follow certain procedures to prevent unauthorized changes in telephone service providers ("slamming").

CURRENT VERSION OF TEXT

As introduced.



1 AN ACT concerning telecommunications and supplementing chapter 17
2 of Title 48 of the Revised Statutes.

3
4 **BE IT ENACTED** *by the Senate and General Assembly of the State*
5 *of New Jersey:*

6
7 1. A telecommunications company, or any person, firm or
8 corporation representing a telecommunications company, shall not
9 make any change or authorize a different telecommunications company
10 to make any change in the provider of any telephone service for which
11 a subscriber has the ability to presubscribe until all of the following
12 steps have been completed:

13 a. The telecommunications company, its representatives or agents
14 shall thoroughly inform the subscriber of the nature and extent of the
15 service being offered;

16 b. The telecommunications company, its representatives or agents
17 shall specifically inquire of the subscriber whether the subscriber
18 intends to make any change in the subscriber's telephone service
19 provider and explain any charges associated with that change; and

20 c. For sales of residential service, the subscriber's decision to
21 change the subscriber's telephone service provider shall be confirmed
22 by an independent third-party verification company. For the purposes
23 of this provision, the confirmation by a third-party verification
24 company shall be made as follows:

25 (1) The independent third-party verification company shall:

26 (a) Not be directly or indirectly managed, controlled, or directed,
27 or owned wholly or in part, by the telecommunications company that
28 seeks to provide the new service or by any corporation, firm or person
29 who directly or indirectly manages, controls, or directs or owns more
30 than five percent of the telecommunications company;

31 (b) Operate from facilities physically separate from those of the
32 telecommunications company that seeks to provide the subscriber's
33 new service; and

34 (c) Not derive commissions or compensation based upon the
35 number of sales confirmed.

36 (2) The telecommunications company seeking to verify the sale
37 shall do so by connecting the subscriber by telephone to the third-party
38 verification company or by arranging for the third-party verification
39 company to call the subscriber to confirm the sale.

40 (3) The third-party verification company shall obtain the
41 subscriber's oral confirmation regarding the change, and shall record
42 that confirmation by obtaining appropriate verification data such as the
43 customer's date of birth or Social Security number. The record shall
44 be available to the subscriber upon the subscriber's request.
45 Information obtained from the subscriber through confirmation shall
46 not be used for marketing purposes. Any unauthorized release of this

1 information is grounds for the initiation of suit in Superior Court by
2 the aggrieved subscriber for damages against the telecommunications
3 company or its employees who are responsible for the violation.

4 (4) Notwithstanding the provisions of paragraphs (1), (2) and (3)
5 of this subsection, a service provider shall not be required to comply
6 with these provisions when the customer directly calls the local
7 service provider to make changes in service providers. However, a
8 service provider shall not avoid the verification requirements by asking
9 a subscribing customer to contact a local exchange service provider
10 directly to make any change in the service provider. A local exchange
11 service provider shall be required to comply with these verification
12 requirements for its own services for which a subscriber has the ability
13 to presubscribe. However, a local exchange service provider shall not
14 be required to perform any verification requirements for any changes
15 solicited by another telecommunications company.

16 d. For sales of all nonresidential services, the subscriber's decision
17 to change the subscriber's service provider shall be confirmed through
18 any of the following means:

19 (1) Independent third party verification, as set forth in subsections
20 a., b. and c. of this section.

21 (2) The telecommunications company shall mail to the subscriber
22 as soon as possible an information package seeking confirmation of the
23 subscriber's change in telecommunications companies. The
24 information package shall describe the new service and shall include
25 a postage prepaid postcard or mailer that the subscriber can use to
26 deny, cancel, or confirm a service order. The telecommunications
27 company shall wait 14 days after the package is mailed to the
28 subscriber before making a change in service providers. The
29 telecommunications company shall make the change only if the
30 subscriber does not cancel the change in service order within the 14-
31 day period.

32 (3) Verification of the subscriber's change in the subscriber's
33 telephone service provider by obtaining the subscriber's signature on
34 a document fully explaining the nature and extent of the action. The
35 document shall be a separate document whose sole purpose is to
36 explain the nature and extent of the action.

37 (4) Obtaining the subscriber's authorization through an electronic
38 means that takes the information, including the calling number, and
39 confirms the change to which the subscriber has given the subscriber's
40 consent.

41 e. Where the telecommunications company obtains a written order
42 for service, the document shall thoroughly inform the subscriber of the
43 nature and extent of the action. The subscriber shall be furnished with
44 a copy of the signed document. The subscriber, by the subscriber's
45 signature on the document, shall indicate a full understanding of the
46 relationship being established with the telecommunications company.

1 When a written subscriber solicitation or other document contains a
2 letter of agency authorizing a change in service provider, in
3 combination with other information including, but not limited to,
4 inducements to subscribers to purchase service, the solicitation shall
5 include a separate document whose sole purpose is to explain the
6 nature and extent of the action. If any part of a mailing to a
7 prospective subscriber is in language other than English, any written
8 authorization contained in the mailing shall be sent to the same
9 prospective subscriber in the same language.

10 f. The telecommunications company shall retain a record of the
11 verification of the change for at least one year. These records shall be
12 made available to the subscriber, the Attorney General, or the Board
13 of Public Utilities upon request.

14
15 2. When a subscriber changes telephone service providers, the
16 change shall be conspicuously noticed on the subscriber's bill. Notice
17 in the following form is deemed to comply with this section:

18 "NOTICE: Your local (or long distance) telephone service provider
19 has been changed from (name of prior provider) to (name of current
20 provider). Cost of change: \$____."

21
22 3. The provisions of this act shall apply to all intra-State telephone
23 services for which a telephone subscriber has the ability to
24 presubscribe.

25
26 4. The Board of Public Utilities shall adopt rules and regulations
27 pursuant to the provisions of the "Administrative Procedure Act,"
28 P.L.1968, c.410 (C.52:14B-1 et seq.) to effectuate the purposes of this
29 act.

30
31 5. Any telecommunications company that violates the verification
32 procedures described in this act shall be liable to the
33 telecommunications company previously selected by the subscriber in
34 an amount equal to all charges paid by the subscriber after the
35 violation.

36
37 6. The remedies provided by this act are in addition to any other
38 remedies available by law.

39
40 7. This act shall take effect immediately.

41
42
43 STATEMENT

44
45 This bill, which is based upon section 2889.5 of the California
46 Public Utilities Code (amended by California Senate Bill No. 114 of

1 1996), is intended to deal with the problem of slamming, the
2 unauthorized changing of a customer's telephone service provider.

3 The bill provides that a telecommunications company or its
4 representatives shall not make any change or authorize a different
5 telecommunications company to make any change in the provider of
6 any service for which a subscriber may presubscribe until all of the
7 following steps have been completed: The telecommunications
8 company, its representatives or agents shall thoroughly inform the
9 subscriber of the nature and extent of the service being offered and
10 shall inquire of the subscriber whether the subscriber intends to make
11 any change in the subscriber's telephone service provider and explain
12 any charges associated with that change. For sales of residential
13 service, the subscriber's decision to change the subscriber's telephone
14 service provider shall be confirmed by an independent third-party
15 verification company.

16 The third party verification company is not to be directly or
17 indirectly managed, controlled or directed, or owned, by the
18 telecommunications company or by any corporation, firm or person
19 who manages, controls or directs or owns more than five percent of
20 the telecommunications company. In addition, the verification
21 company is to operate from physically separate facilities and not derive
22 commissions or compensation based upon the number of sales
23 confirmed.

24 The telecommunications company seeking to verify the sale shall do
25 so by connecting the subscriber by telephone to the verification
26 company or by arranging for the verification company to call the
27 subscriber to confirm the sale. However, a service provider shall not
28 be required to follow these verification procedures when the customer
29 directly calls the local service provider to make changes in service
30 providers. A local exchange service provider shall be required to
31 comply with these verification requirements for its own services for
32 which a subscriber may presubscribe.

33 For sales of non-residential services, the subscriber's decision to
34 change the subscriber's service provider is to be confirmed through the
35 independent third party verification method or through the use of mail
36 confirmation, a separate written document, or electronic means. In the
37 case of mail confirmation, the subscriber is given 14 days from receipt
38 of the mailer to deny, cancel or confirm the service order. A
39 telecommunications company that violates the verification procedures
40 described in the bill shall be liable to the telecommunications company
41 previously selected by the subscriber in an amount equal to all charges
42 paid by the subscriber after the violation.

43 The provisions of the bill are to apply to all intra-State telephone
44 services for which a subscriber has the ability to presubscribe.

45 The purpose of the bill is to deal with many complaints received by
46 the Federal Communications Commission and other federal and state

S1073 CARDINALE, SINGER

6

1 agencies from New Jersey residents concerning slamming by not
2 permitting a telecommunications company to act as the subscriber's
3 agent but by requiring the subscriber to have the subscriber's decision
4 to change residential service confirmed by an independent third-party
5 verification company.

SENATE TRANSPORTATION COMMITTEE

STATEMENT TO

SENATE COMMITTEE SUBSTITUTE FOR **SENATE, No. 1073**

STATE OF NEW JERSEY

DATED: JUNE 22,1998

The Senate Transportation Committee reports favorably a Senate Committee Substitute for Senate Bill No. 1073.

This committee substitute establishes procedures for authorizing changes in customers' telecommunications service providers and directs the Board of Public Utilities (the board) to adopt rules and regulations relating to changes in providers of telecommunications service.

This bill, and the rules to be adopted by the board, would address unauthorized changes in providers of telecommunications, commonly known as slamming.

Competition in the telecommunications industry provides opportunities for making changes in one or more of a customer's selected telecommunications services by one or more providers without the customer's knowledge, agreement or express authorization. These unauthorized changes in telecommunications service providers are a deceptive practice in conducting business. Unauthorized changes in telecommunications service may subject customers to excessive telecommunications charges, require time and effort by customers to reverse changes and deprive customers of a choice of telecommunications providers.

The bill provides that no telecommunications service provider, or any person, firm or corporation acting as an agent or representative of a telecommunications service provider, may make any change or direct a different telecommunications service provider to make any change in a provider of a telecommunications service for which there are multiple providers on behalf of a customer, unless the provider, agent or representative complies with authorization and confirmation procedures established by the board and by federal law and rules. The bill provides that the act of any person, firm or corporation acting as agent or representative of a telecommunications service provider when acting within the parameters of the working agreement set forth by the telecommunications service provider shall be deemed to be the act of that provider.

The bill also provides protections for a customer seeking to change his provider of a telecommunications service by requiring a

telecommunications service provider, or any person, firm or corporation acting as an agent or representative on behalf of a telecommunications service provider, to make any change in a provider of a telecommunications service for which there are multiple providers when such change order has been received in a manner that complies with federal and State rules and regulations within 30 business days of receipt of the compliant change order which may be extended for good cause by the board for an additional 30-day period, or within such other time period as agreed to by the customer, or as specified by rule or order of the board, or as agreed to by the telecommunications carriers involved in the change, or by federal law or rule. The provisions of this bill shall not apply to the initial installation of telephone service by a local exchange telecommunications carrier.

The bill requires the board to adopt rules and regulations relating to changes in telecommunications service providers that are consistent with federal law. The rules and regulations would establish procedures for a customer to confirm a change in a telecommunications service provider made by another telecommunications service provider on behalf of the customer and set forth methods for enforcing those rules and regulations.

When an authorized change in a telecommunications service provider is made, the bill requires the new telecommunications service provider to notify the customer of the change in the manner determined by the board within 30 days. The bill also requires any bill for intrastate, interLATA, intraLATA or local exchange service to contain the name and telephone number of each telecommunications service provider for which billing is provided, as well as any other information deemed applicable by the telecommunications service provider.

The bill authorizes the board to impose a civil penalty, after notice and opportunity to be heard, of not more than \$7,500 for a first violation and not to exceed \$15,000 for each subsequent violation associated with a specific access line within the State, if the board determines that a telecommunications service provider has violated any provision of the bill or any rule, regulation or order adopted pursuant to it or has violated any federal law and rules relating to changes in providers of telecommunications service applicable to intrastate service.

STATEMENT TO

SENATE COMMITTEE SUBSTITUTE FOR
SENATE, No. 1073

with Assembly Floor Amendments
(Proposed By Assemblywoman HECK)

ADOPTED: JUNE 29, 1998

These amendments delete from the bill the provision that exempts the initial installation of telephone service by a local exchange telecommunications carrier from the provisions of the bill. The amendments also clarify that a change in service pursuant to a properly processed order may be effected at a time otherwise agreed to by a customer, other than the required 30 days. The amendments make the Senate Committee Substitute for Senate Bill No. 1073 identical to the Second Reprint Assembly Committee Substitute for Assembly Bill Nos. 2082 and 860 (A-2082/860 ACS (2R)).

[Second Reprint]

ASSEMBLY COMMITTEE SUBSTITUTE FOR
ASSEMBLY, Nos. 2082 and 860

STATE OF NEW JERSEY
208th LEGISLATURE

ADOPTED JUNE 1, 1998

Sponsored by:

Assemblywoman ROSE MARIE HECK

District 38 (Bergen)

Assemblyman KEVIN J. O'TOOLE

District 21 (Essex and Union)

Assemblywoman CLARE M. FARRAGHER

District 12 (Monmouth)

Co-Sponsored by:

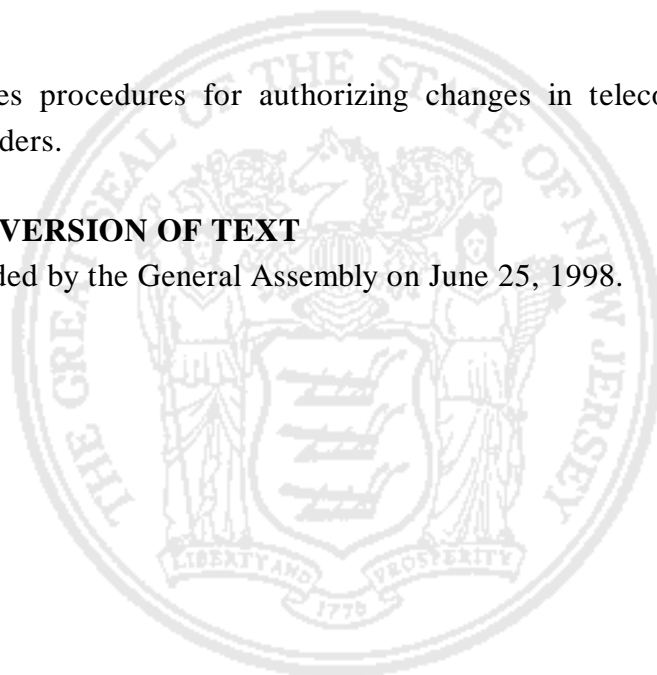
**Assemblymen Corodemus, DiGaetano, Assemblywoman Murphy,
Assemblymen Caraballo, Stuhltrager, Zecker, Geist, Cohen, Wisniewski,
Impreveduto, Luongo, Gusciora and Thompson**

SYNOPSIS

Establishes procedures for authorizing changes in telecommunications service providers.

CURRENT VERSION OF TEXT

As amended by the General Assembly on June 25, 1998.



(Sponsorship Updated As Of: 6/26/1998)

1 AN ACT concerning changes in ¹**[providers of]**¹ telecommunications
2 ¹**[services]**service providers¹ and supplementing ¹**[chapter 17 of**
3 Title 48 of the Revised Statutes]P.L.1960, c.39 (C.56:8-
4 1 et seq.)¹.

5
6 **BE IT ENACTED** by the Senate and General Assembly of the State
7 of New Jersey:

8
9 1. As used is this act:

10 "Board" means the Board of Public Utilities.

11 ¹"Director" means the Director of the Division of Consumer
12 Affairs in the Department of Law and Public Safety."¹

13 ¹**["Provider of telecommunications service"]**"Telecommunications
14 service provider"¹ means any individual, firm, joint venture,
15 partnership, corporation, association, public utility, cooperative
16 association, joint stock association and includes any trustee, receiver,
17 assignee, representative, provider of intrastate, interLATA, intraLATA
18 or local exchange telecommunications service to an end-use customer.

19 "Service for which there are multiple providers" means a service
20 for which customers have the ability to subscribe or select from more
21 than one ¹**[provider of]**¹ telecommunications service ¹provider¹.

22
23 2. No telecommunications ¹**[company]**service provider¹, or any
24 person, firm or corporation acting as an agent or representative on
25 behalf of a telecommunications ¹**[company]**service provider¹, shall ¹.¹
26 on behalf of a customer¹.¹ make any change or direct a different
27 telecommunications ¹**[company]**service provider¹ to make any change
28 in a provider of a telecommunications service for which there are
29 multiple providers, unless the ¹**[company]**provider¹, agent or
30 representative complies with authorization and confirmation
31 procedures established by the board and by federal law and rules. In
32 construing and enforcing the provisions of this section, the act of any
33 person, firm or corporation acting as agent or representative acting on
34 behalf of a telecommunications ¹**[company]**service provider¹ within
35 the parameters of the working agreement set forth by the
36 telecommunications ¹**[company]**service provider¹ shall be deemed to
37 be the act of that telecommunications ¹**[company]**service provider¹.

38
39 3. No telecommunications ¹**[company]**service provider¹ or any
40 person, firm or corporation acting as an agent or representative on

EXPLANATION - Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and intended to be omitted in the law.

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹ Assembly floor amendments adopted June 18, 1998.

² Assembly floor amendments adopted June 25, 1998.

1 behalf of a telecommunications ¹~~company~~service provider¹, shall, on
2 behalf of a customer, fail to make any change in a provider of a
3 telecommunications service for which there are multiple providers
4 when such change order has been received in a manner that complies
5 with federal and State rules and regulations. All such change orders
6 ¹~~must~~shall¹ be properly processed to assure that the order is
7 completed and service will be provided by the new telecommunications
8 ¹~~carrier~~service provider¹ of choice within ²~~10~~30² business days
9 of receipt of the compliant change order ²~~or within such other time~~
10 period as which may be extended for good cause by the board for an
11 additional 30-day period, unless otherwise² agreed to by the customer,
12 or as specified by rule or order of the board, or as agreed to by the
13 ¹~~telecommunication carriers~~telecommunications service providers¹
14 involved in the change, or by federal law or rule.

15

16 4. The board¹ in consultation with the director,¹ shall adopt rules
17 and regulations relating to changes in ¹~~providers of~~¹
18 telecommunications service providers¹ that are consistent with federal
19 law and which, among other requirements, shall establish procedures
20 for a customer to confirm a change in a ¹~~provider of~~¹
21 telecommunications service provider¹ made by another
22 telecommunications ¹~~company~~service provider¹ on behalf of the
23 customer, establish procedures by which the new ¹~~provider of~~¹
24 telecommunications service provider¹ shall notify a customer of a
25 change in a ¹~~provider of~~¹ telecommunications service provider¹,
26 and set forth methods for enforcing those rules and regulations.

27

28 5. When an authorized change in a ¹~~provider of a~~¹
29 telecommunications service provider¹ is made, the new ¹~~provider~~¹
30 of¹ telecommunications service provider¹ shall be responsible for
31 notifying the customer of the change within 30 days in the manner
32 determined by the board pursuant to section 4 of this act. In addition,
33 any bill for intrastate, interLATA, intraLATA or local exchange
34 service shall contain the name and telephone number of each
35 ¹~~provider of~~¹ telecommunications service provider¹ for which
36 billing is provided, and any other information deemed applicable by the
37 telecommunications service¹ provider.

38

39 6. A ¹~~provider of~~¹ telecommunications ¹~~services~~service¹
40 provider¹ who is determined by the board, after notice and opportunity
41 to be heard, to have willfully or intentionally violated any provision of
42 this act or any rule, regulation or order adopted pursuant hereto or to
43 have violated any federal law and rules relating to changes in
44 ¹~~providers of~~¹ telecommunications service providers¹ applicable to
45 intrastate service shall be liable to a civil penalty not to exceed

1 ~~1~~ ~~[\$2,500]~~ \$7,500 for a first violation and not to exceed \$15,000¹ for
2 each ¹ subsequent¹ violation associated with a specific access line
3 within the State. All moneys recovered from an administrative penalty
4 imposed pursuant to this section shall be paid into the State Treasury
5 to the credit of the General Fund.

6

7 7. This act shall take effect on the first day of the third month
8 following enactment.

ASSEMBLY POLICY AND REGULATORY OVERSIGHT
COMMITTEE

STATEMENT TO

ASSEMBLY COMMITTEE SUBSTITUTE FOR
Assembly, Nos. 2082 and 860

STATE OF NEW JERSEY

DATED: JUNE 1, 1998

The Assembly Policy and Regulatory Oversight Committee reports favorably an Assembly Committee Substitute for Assembly Bill Nos. 2082 and 860.

This committee substitute establishes procedures for authorizing changes in customers' telecommunications service providers and directs the Board of Public Utilities (the board) to adopt rules and regulations relating to changes in providers of telecommunications service.

This bill, and the rules to be adopted by the board, would address unauthorized changes in providers of telecommunications, commonly known as slamming.

Competition in the telecommunications industry provides opportunities for making changes in one or more of a customer's selected telecommunications services by one or more providers without the customer's knowledge, agreement or express authorization. These unauthorized changes in telecommunications service providers are a deceptive practice in conducting business. Unauthorized changes in telecommunications service may subject customers to excessive telecommunications charges, require time and effort by customers to reverse changes and deprive customers of a choice of telecommunications providers.

The bill provides that no telecommunications company, or any person, firm or corporation acting as an agent or representative of a telecommunications company, may make any change or direct a different telecommunications company to make any change in a provider of a telecommunications service for which there are multiple providers on behalf of a customer, unless the company, agent or representative complies with authorization and confirmation procedures established by the board and by federal law and rules. The bill provides that the act of any person, firm or corporation acting as agent or representative of a telecommunications company when acting within the parameters of the working agreement set forth by the telecommunications company shall be deemed to be the act of that

telecommunications company.

The bill also provides protections for customers seeking to change their telecommunications provider by requiring a telecommunications company, or any person, firm or corporation acting as an agent or representative on behalf of a telecommunications company, to make any change in a provider of a telecommunications service for which there are multiple providers when such change order has been received in a manner that complies with federal and State rules and regulations within 10 business days of receipt of the compliant change order or within such other time period as agreed to by the customer, or as specified by rule or order of the board, or as agreed to by the telecommunication carriers involved in the change, or by federal law or rule.

The bill requires the board to adopt rules and regulations relating to changes in providers of telecommunications service that are consistent with federal law. The rules and regulations would establish procedures for a customer to confirm a change in a provider of telecommunications service made by another telecommunications company on behalf of the customer and set forth methods for enforcing those rules and regulations.

When an authorized change in a provider of a telecommunications service is made, the bill requires the new provider of telecommunications service to notify the customer of the change in the manner determined by the board within 30 days. The bill also requires any bill for intrastate, interLATA, intraLATA or local exchange service to contain the name and telephone number of each provider of telecommunications service for which billing is provided, as well as any other information deemed applicable by the telecommunications provider.

The bill authorizes the board to impose a civil penalty, after notice and opportunity to be heard, of not more than \$2,500 for each violation associated with a specific access line within the State, if the board determines that a provider of telecommunications services has violated any provision of the bill or any rule, regulation or order adopted pursuant to it or has violated any federal law and rules relating to changes in providers of telecommunications service applicable to intrastate service.

STATEMENT TO
ASSEMBLY COMMITTEE SUBSTITUTE FOR
ASSEMBLY, Nos. 2082 and 860

with Assembly Floor Amendments
(Proposed By Assemblywoman HECK)

ADOPTED: JUNE 18, 1998

These amendments include the unauthorized change of telecommunications service providers in the consumer fraud law, P.L.1960, c.39 (C.56:8-1 et seq.). For clarification, the amendments make consistent the references in the bill to telecommunications service providers. Other technical amendments are made as well. Finally, the amendments would increase the penalty for a violation of the bill or any rule, regulation or order adopted pursuant to it, or for a violation of any federal law and rules relating to changes in telecommunications service providers applicable to intrastate service, to up to \$7,500 for a first violation and up to \$15,000 for any subsequent violation.

STATEMENT TO

[First Reprint]

ASSEMBLY COMMITTEE SUBSTITUTE FOR
ASSEMBLY, Nos. 2082 and 860

with Assembly Floor Amendments
(Proposed By Assemblywoman HECK)

ADOPTED: JUNE 25, 1998

These amendments require a customer request for any change in telecommunications service providers to be properly processed within 30 business days of receipt of the change request. The amendments allow the 30-day period to be extended for good cause by the Board of Public Utilities, or some other time period may apply if agreed to by the customer. In its current form, the bill would require the change to be properly processed within 10 business days, without an extension, or within such other time period as agreed to by the customer.

ASSEMBLY, No. 2082

STATE OF NEW JERSEY 208th LEGISLATURE

INTRODUCED MAY 28, 1998

Sponsored by:

Assemblywoman ROSE MARIE HECK

District 38 (Bergen)

Assemblyman KEVIN J. O'TOOLE

District 21 (Essex and Union)

Co-Sponsored by:

**Assemblywoman Farragher, Assemblyman DiGaetano, Assemblywoman
Murphy, Assemblymen Caraballo, Geist, Stuhltrager and Zecker**

SYNOPSIS

Establishes procedures for authorizing changes telecommunications service providers.

CURRENT VERSION OF TEXT

As introduced.



1 AN ACT concerning changes in providers of telecommunications
2 services and supplementing chapter 17 of Title 48 of the Revised
3 Statutes.

4
5 **BE IT ENACTED** by the Senate and General Assembly of the State
6 of New Jersey:

7
8 1. As used in this act:

9 "Board" means the Board of Public Utilities.

10 "Provider of telecommunications service" means any individual,
11 firm, joint venture, partnership, corporation, association, public utility,
12 cooperative association, joint stock association and includes any
13 trustee, receiver, assignee, representative, provider of intrastate,
14 interLATA, intraLATA or local exchange telecommunications service
15 to an end-use customer.

16 "Service for which there are multiple providers" means a service for
17 which customers have the ability to subscribe or select from more than
18 one provider of telecommunications service.

19
20 2. No telecommunications company, or any person, firm or
21 corporation acting as an agent or representative on behalf of a
22 telecommunications company, shall on behalf of a customer make any
23 change or direct a different telecommunications company to make any
24 change in a provider of a telecommunications service for which there
25 are multiple providers, unless the company, agent or representative
26 complies with authorization and confirmation procedures established
27 by the board and by federal law and rules. In construing and enforcing
28 the provisions of this section, the act of any person, firm or
29 corporation acting as agent or representative acting on behalf of a
30 telecommunications company within the parameters of the working
31 agreement set forth by the telecommunications company shall be
32 deemed to be the act of that telecommunications company.

33
34 3. No telecommunications company or any person, firm or
35 corporation acting as an agent or representative on behalf of a
36 telecommunications company, shall, on behalf of a customer, fail to
37 make any change in a provider of a telecommunications service for
38 which there are multiple providers when such change order has been
39 received in a manner that complies with federal and State rules and
40 regulations. All such change orders must be properly processed to
41 assure that the order is completed and service will be provided by the new
42 telecommunications carrier of choice within ten business days of
43 receipt of the compliant change order or within such other time period
44 as agreed to by the customer.

45
46 4. The board shall adopt rules and regulations relating to changes

1 in providers of telecommunications service that are consistent with
2 federal law and which, among other requirements, shall establish
3 procedures for a customer to confirm a change in a provider of
4 telecommunications service made by another telecommunications
5 company on behalf of the customer, establish procedures by which the
6 new provider of telecommunications service shall notify a customer of
7 a change in a provider of telecommunications service, and set forth
8 methods for enforcing those rules and regulations.

9
10 5. When an authorized change in a provider of a
11 telecommunications service is made, the new provider of
12 telecommunications service shall be responsible for notifying the
13 customer of the change in the manner determined by the board
14 pursuant to section 4 of this act within 30 days. In addition, any bill
15 for intrastate, interLATA, intraLATA or local exchange service shall
16 contain the name, address and telecommunications number of each
17 provider of telecommunications service for which billing is provided
18

19 6. A provider of telecommunications services who is determined by
20 the board, after notice and opportunity to be heard, to have violated
21 any provision of this act or any rule, regulation or order adopted
22 pursuant thereto or to have violated any federal law and rules relating
23 to changes in providers of telecommunications service applicable to
24 intrastate service shall be liable to a civil penalty not to exceed \$2,500
25 for each violation associated with a specific access line within the
26 state. All moneys recovered from an administrative penalty imposed
27 pursuant to this section shall be paid into the State Treasury to the
28 credit of the General Fund.

29
30 7. This act shall take effect on the first day of the third month
31 following enactment.

32
33
34 STATEMENT

35
36 This bill establishes procedures for authorizing changes in
37 customers' telecommunications service providers and directs the Board
38 of Public Utilities (the board) to adopt rules and regulations relating
39 to changes in providers of telecommunications service.

40 This bill, and the rules to be adopted by the board, would address
41 unauthorized changes in providers of telecommunications, commonly
42 known as slamming.

43 Competition in the telecommunications industry provides
44 opportunities for making changes in one or more of a customer's
45 selected telecommunications service by one or more other providers
46 without the customer's knowledge, agreement or express

1 authorization. These unauthorized changes in telecommunications
2 service providers are a deceptive practice in conducting business and
3 an action that causes injury to customers. Unauthorized changes in
4 telecommunications service may subject customers to excessive
5 telecommunications charges, require time and effort by customers to
6 reverse changes and deprive customers of a choice of
7 telecommunications providers.

8 The bill provides that no telecommunications company or any
9 person, firm or corporation acting as an agent or representative of a
10 telecommunications company, may make any change or direct a
11 different telecommunications company to make any change in a
12 provider of a telecommunications service for which there are multiple
13 providers on behalf of a customer, unless the company, agent or
14 representative complies with authorization and confirmation
15 procedures established by the board and by federal law and rules. The
16 bill provides that the act of any person, firm or corporation acting as
17 agent or representative of a telecommunications company when acting
18 within the parameters of the working agreement set forth by the
19 telecommunications company shall be deemed to be the act of that
20 telecommunications company.

21 The bill also provides protections for customers seeking to change
22 their telecommunications provider by requiring telecommunications
23 company or any person, firm or corporation acting as an agent or
24 representative on behalf of a telecommunications company, to make
25 any change in a provider of a telecommunications service for which
26 there are multiple providers when such change order has been received
27 in a manner that complies with federal and State rules and regulations
28 within ten business days of receipt of the compliant change order or
29 within such other time period as agreed to by the customer.

30 The bill requires the board to adopt rules and regulations relating
31 to changes in providers of telecommunications service that are
32 consistent with federal law. The rules and regulations would establish
33 procedures for a customer to confirm a change in a provider of
34 telecommunications service made by another telecommunications
35 company on behalf of the customer and set forth methods for
36 enforcing those rules and regulations.

37 When an authorized change in a provider of a telecommunications
38 service is made, the bill requires the new provider of
39 telecommunications service to notify the customer of the change in the
40 manner determined by the board within 30 days. The bill also requires
41 any bill for intrastate, interLATA, intraLATA or local exchange
42 service to contain the name, address and telecommunications number
43 of each provider of telecommunications service for which billing is
44 provided.

45 The bill authorizes the board to impose a civil penalty, after notice
46 and opportunity to be heard, of not more than \$2,500 for each

1 violation associated with a specific access line within the state, if the
2 board determines that a provider of telecommunications services has
3 violated any provision of this act or any rule, regulation or order
4 adopted pursuant thereto or has violated any federal law and rules
5 relating to changes in providers of telecommunications service
6 applicable to intrastate service.

ASSEMBLY, No. 860
STATE OF NEW JERSEY
208th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 1998 SESSION

Sponsored by:

Assemblywoman CLARE M. FARRAGHER

District 12 (Monmouth)

Assemblyman STEVE CORODEMUS

District 11 (Monmouth)

Co-Sponsored by:

Assemblymen Luongo, Zecker, Geist and Gusciora

SYNOPSIS

Requires local telephone companies to notify subscribers of change in long-distance carrier.

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel.

(Sponsorship Updated As Of: 6/12/1998)

An Act concerning long-distance telecommunications service and supplementing chapter 17 of Title 48 of the Revised Statutes.

Be It Enacted *by the Senate and General Assembly of the State of New Jersey:*

1. Notwithstanding the provisions of any law, rule, regulation or order to the contrary, upon receiving notice from an interexchange carrier that a subscriber has changed primary interexchange carriers, a local exchange telecommunications company shall send written notice to the subscriber of that change within five working days.

2. This act shall take effect immediately.

STATEMENT

This bill would require local telephone companies to send written notice to a telephone subscriber within five working days of receiving notice that the subscriber has changed primary interexchange carriers. Although telephone subscribers select their primary interexchange carriers, which provide long-distance services, the practice known as "slamming," where telephone subscribers are tricked into authorizing a change in their long-distance carrier, is fairly common. A telephone subscriber may respond to a sweepstakes entry or endorse a check unaware that this response is authorizing a change in long-distance service. By requiring local telephone companies to send a written notice of a change in primary interexchange carriers to the subscriber, the subscriber will be made aware of any unintentional change in primary interexchange carrier and will be provided the opportunity to take action in a timely manner.

Office of the Governor
NEWS RELEASE

PO BOX 004
TRENTON, NJ 08625

CONTACT: Wendi Patella
609-777-2600

RELEASE: August 24, 1998

Governor Signs Slamming, Organ Donor Bills into Law

Gov. Christie Whitman today signed the following pieces of legislation:

S-1073, sponsored by Senators Gerald Cardinale (R- Bergen), Robert Singer (R- Burlington/Monmouth/Ocean) and Peter Inverso (R-Mercer/Middlesex) and Assembly Members Rose Heck (R-Bergen), Kevin O'Toole (R-Essex/Union), Claire Farragher (R-Monmouth) and Steve Corodemus (R-Monmouth), which establishes procedures for authorizing changes in telecommunications service providers. The bill is intended to prohibit the practice of "slamming," which involves the unauthorized switching of a customer's telecommunications provider without their customer's consent. Specifically, the legislation prohibits service providers from making any change in service on behalf of a client without complying with authorization and confirmation procedures established by the Board of Public Utilities or federal law. Violators of the provisions of this bill will be subject to a civil penalty of up to \$7,500 for a first offense and up to \$15,000 for a subsequent offense associated with a specific access line within the state.

S-543, sponsored by Senators Martha Bark (R- Atlantic/Burlington/Camden) and John Matheussen (R- Camden/Gloucester) and Assembly Members Francis Bodine (R- Atlantic/Burlington/Camden) and Larry Chatzidakis (R- Atlantic/Burlington/Camden), provides that a family member or other loved one cannot revoke the decision previously made by a now-deceased person who signed an organ or tissue donation card or directive. The purpose of the law is to ensure compliance with the wishes of persons who indicate their intention to donate organs or tissues upon death.

CALIFORNIA PUBLIC UTILITIES CODE, Section 2889.5

2889.5. (a) No telephone corporation, or any person, firm, or corporation representing a telephone corporation, shall make any change or authorize a different telephone corporation to make any change in the provider of any telephone service for which competition has been authorized of a telephone subscriber until all of the following steps have been completed:

(1) The telephone corporation, its representatives or agents shall thoroughly inform the subscriber of the nature and extent of the service being offered.

(2) The telephone corporation, its representatives or agents shall specifically establish whether the subscriber intends to make any change in his or her telephone service provider, and explain any charges associated with that change.

(3) For sales of residential service, the subscriber's decision to change his or her telephone service provider shall be confirmed by an independent third-party verification company. For purposes of this provision, the confirmation by a third-party verification company shall be made as follows:

(A) The third-party verification company shall meet each of the following criteria:

(i) Be independent from the telephone corporation that seeks to provide the subscriber's new service.

(ii) Not be directly or indirectly managed, controlled, or directed, or owned wholly or in part, by the telephone corporation that seeks to provide the new service or by any corporation, firm, or person who directly or indirectly manages, controls, or directs, or owns more than 5 percent of the telephone corporation.

(iii) Operate from facilities physically separate from those of the telephone corporation that seeks to provide the subscriber's new service.

(iv) Not derive commissions or compensation based upon the number of sales confirmed.

(B) The telephone corporation seeking to verify the sale shall do so by connecting the subscriber by telephone to the third-party verification company or by arranging for the third-party verification company to call the subscriber to confirm the sale.

(C) The third-party verification company shall obtain the subscriber's oral confirmation regarding the change, and shall record that confirmation by obtaining appropriate verification data. The record shall be available to the subscriber upon request.

Information obtained from the subscriber through confirmation shall not be used for marketing purposes. Any unauthorized release of this information is grounds for a civil suit by the aggrieved subscriber against the telephone corporation or its employees who are responsible for the violation.

(D) Notwithstanding subparagraphs (A), (B), and (C), a service provider shall not be required to comply with these provisions when the customer directly calls the local service provider to make changes in service providers. However, a service provider shall not avoid the verification requirements by asking a subscribing customer to contact a local exchange service provider directly to make any change in the service provider. A local exchange service provider

shall be required to comply with these verification requirements for its own competitive services. However, a local exchange service provider shall not be required to perform any verification requirements for any changes solicited by another telephone corporation.

(4) For sales of residential service to which paragraph (3) applies, the telephone corporation seeking to verify the change in service, in addition to the requirements of paragraph (3), shall notify the subscriber by United States Postal Service that the subscriber's telephone service provider has been changed. The service provider that initiated the change shall send that notice within 14 days of the date of the change. The notice shall provide the subscriber with clear, legible notice of the change in service provider, and shall include a customer service telephone number for the subscriber to call if the subscriber did not authorize the change in service.

(5) For sales of all nonresidential services, the subscriber's decision to change his or her service provider shall be confirmed through any of the following means:

(A) Independent third-party verification, as set forth in paragraph (3) of subdivision (a).

(B) The telephone corporation shall mail to the subscriber an information package seeking confirmation of his or her change in the telephone corporation. The information package shall describe the new service and shall include a postage prepaid postcard or mailer that the subscriber can use to deny, cancel, or confirm a service order, as soon as possible, and wait 14 days after the information package is mailed before making the change in the telephone corporation. The telephone corporation shall make the change only if the subscriber does not cancel the change in service order.

(C) Verify the subscriber's change in his or her telephone service provider by obtaining the subscriber's signature on a document fully explaining the nature and extent of the action. The document shall be a separate document whose sole purpose is to explain the nature and extent of the action.

(D) Obtain the subscriber's authorization through an electronic means that takes the information, including the calling number, and confirms the change to which the subscriber has given his or her consent.

(6) Where the telephone corporation obtains a written order for service, the document shall thoroughly inform the subscriber of the nature and extent of the action. The subscriber shall be furnished with a copy of the signed document. The subscriber by his or her signature on the document shall indicate a full understanding of the relationship being established with the telephone corporation. When a written subscriber solicitation or other document contains a letter of agency authorizing a change in service provider, in combination with other information including, but not limited to, inducements to subscribers to purchase service, the solicitation shall include a separate document whose sole purpose is to explain the nature and extent of the action. If any part of a mailing to a prospective subscriber is in language other than English, any written authorization contained in the mailing shall be sent to the same prospective subscriber in the same language.

(7) The telephone corporation shall retain a record of the verification of the sale for at least one year. These records shall be made available to the subscriber, the Attorney General, or the

commission upon request.

(b) If a residential or business subscriber that has not signed an authorization notifies the telephone corporation within 90 days that he or she does not wish to change telephone corporations, the subscriber shall be switched back to his or her former telephone corporation at the expense of the telephone corporation that initiated the change.

(c) For purposes of this section, competitive services are those services where subscribers have the ability to presubscribe to a telephone service provider.

(d) When a subscriber changes telephone service providers, the change shall be conspicuously noticed on the subscriber's bill. Notice in the following form is deemed to comply with this subdivision:

"NOTICE: Your local (or long distance) telephone service provider has been changed from (name of prior provider) to (name of current provider).

Cost of change: \$ ____."

(e) Any telephone corporation that violates the verification procedures described in this section shall be liable to the telephone corporation previously selected by the subscriber in an amount equal to all charges paid by the subscriber after the violation.

(f) In addition to the liability described in subdivision (e), any telephone corporation that violates the verification procedures described in this section shall credit to a subscriber any charges paid by the subscriber in excess of the amount that the subscriber would have been obligated to pay had the subscriber's telephone service not been changed. The commission shall adopt regulations to govern credits to subscribers pursuant to this subdivision.

(g) The remedies provided by this section are in addition to any other remedies available by law.

(h) As described in federal law, no telephone corporation, or any person, firm, or corporation representing a telephone corporation, shall make any change or authorize a different telephone corporation to make any change in the provider of any telephone service for which competition has been authorized of a telephone subscriber without having on file, or having instituted reasonable steps designed to obtain, signed, dated orders for service from the subscriber. All orders shall be in the form prescribed in federal law for letters of agency. As described in federal law, the telephone corporation is responsible for charges associated with disputed changes in telephone service for which it cannot produce a signed, dated order for service from the subscriber. This subdivision applies to all intrastate services for which competition has been authorized.