

**DRAFT RULE LANGUAGE - DOCKET UT-980675**

**WAC 480-120-139 Changes in local exchange and intrastate toll services.**

(1) Verification of orders. A local exchange or intrastate toll carrier who requests on behalf of a subscriber that the subscriber's telecommunications carrier be changed, and who seeks to provide retail services to the subscriber ("submitting carrier") to whom service is being changed ("new telecommunications company") may not submit a change order for local exchange or intrastate toll service until the order is confirmed in accordance with one of the following procedures:

(a) The telecommunications company has obtained the customer's written authorization to submit the order (letter of agency). The letter of agency must be a separate document (or easily separable document) containing only the authorizing language described in sub-paragraph (i) through (vii) of this section, having the sole purpose of authorizing a telecommunications carrier to initiate a preferred carrier change. The letter of agency must be signed and dated by the subscriber to the telephone line(s) requesting the preferred carrier change. The letter of agency shall not be combined on the same document with inducements of any kind; however, it may be combined with checks that contain only the required letter of agency language as prescribed in (i) through (vii), below, and the necessary information to make the check a negotiable instrument. The check may not contain any promotional language or material. It shall contain, in easily readable, bold-face type on the front of the check, a notice that the subscriber is authorizing a preferred carrier change by signing the check. Letter of agency language must be placed near the signature line on the back of the check. Any carrier designated in a letter of agency as a preferred carrier must be the carrier directly setting the rates for the subscriber. Letters of agency must not suggest or require that a subscriber take some action in order to retain the subscriber's current telecommunications carrier. If any portion of a letter of agency is translated into another language, then all portions must be translated into that language; as well as any promotional materials, oral descriptions or instructions provided with the letter of agency. The letter of agency must confirm ~~which includes~~ the following information from the customer:

- (i) The customer billing name, billing telephone number and billing address and each

telephone number to be covered by the change order;

(ii) The decision to change; ~~and~~

(iii) The customer's understanding of the change fee;

(iv) That the subscriber designates [name of carrier] to act as the subscriber's agent for the preferred carrier change; and

(v) That the subscriber understands that only one telecommunications carrier may be designated as the subscriber's interstate (or interLATA) preferred carrier, and that only one telecommunications carrier may be designated as the subscriber's intraLATA preferred carrier, for any one telephone number. The letter of agency must contain a separate statement regarding the subscriber's choice for each preferred carrier, although a separate letter of agency for each choice is not necessary;

(vi) Any carrier designated in a letter of agency as a preferred carrier must be the carrier directly setting the rates for the subscriber; and

(vii) Letters of agency may not suggest or require that a subscriber take some action in order to retain the current preferred carrier.

(b) The ~~new telecommunications company~~ submitting carrier has obtained the customer's authorization, as described in (a) of this subsection, electronically. Such authorization must be placed from the telephone number(s) for which the preferred carrier is to be changed and must confirm the information required in paragraph (a)(i)-(vii) of this section. Telecommunications companies electing to confirm sales electronically shall establish one or more toll free telephone numbers exclusively for that purpose. Calls to the number(s) shall connect a customer to a voice response unit, or similar, that records the required information regarding the change, including automatically recording the originating automatic number identification (ANI).

(c) An appropriately qualified and independent third party operating in a location physically separate from the telemarketing representative has obtained the customer's oral authorization to submit the change order that confirms and includes appropriate verification data ~~in (a) of this subsection:~~ (e.g., the subscriber's date of birth or social security number). The independent third party must not be owned, managed, controlled or directed by the carrier or the

carrier's marketing agent; and must not have any financial incentive to confirm preferred carrier change orders for the carrier or the carrier's marketing agent. The content of the verification must include clear and conspicuous confirmation that the subscriber has authorized a preferred carrier change.

(2) Where a telecommunications carrier is selling more than one type of telecommunications service (e.g., local exchange, intraLATA/intrastate toll, interLATA/interstate toll and international toll), that carrier must obtain separate authorization, and separate verification, from the subscriber for each service sold, although the authorizations may be made within the same solicitation.

(3) The documentation regarding a customer's authorization for a preferred carrier change must be retained by the submitting carrier, at a minimum, for two years to serve as verification of the customer's authorization to change his or her telecommunications company. The documentation will be made available to the customer and to the commission upon request. Documentation includes, but is not limited to, all entire third party verification conversations and, for written verifications, the entire verification document.

(2) (4) Implementing order changes. An executing carrier may not verify the submission of a change in a subscriber's selection of a provider received from a submitting carrier. The executing carrier must comply with a requested change promptly, without any unreasonable delay. An executing carrier is any telecommunications carrier that effects a request that a subscriber's carrier be changed.

(a) This section does not prohibit any company from investigating and responding to any customer initiated inquiry or complaint.

~~—— (a) Telemarketing orders. Within three business days of any telemarketing order for a change, the new telecommunications company must send each new customer an information package by first class mail containing at least the following information concerning the requested~~

change:

~~—— (i) The information is being sent to confirm a telemarketing order placed by the customer.~~

~~—— (ii) The name of the customer's current telecommunications company.~~

~~—— (iii) A description of any terms, conditions or charges that will be incurred.~~

~~—— (iv) The name of the newly requested telecommunications company.~~

~~—— (v) The name of the person ordering the change.~~

~~—— (vi) The name, address and telephone number of both the customer and the soliciting telecommunications company.~~

~~—— (vii) A postpaid postcard which the customer can use to deny, cancel or confirm a service order.~~

~~—— (viii) A clear statement that if the customer does not return the postcard, the customer's service will be switched fourteen days after the date the information package was mailed. If customers have cancelled their orders during the waiting period, the new telecommunications company cannot submit the customer's order.~~

~~—— (ix) The name, address and telephone number of a contact point at the commission for consumer complaints.~~

~~—— (x) The requirements in (a)(vii) and (viii) of this subsection do not apply if authorization is obtained pursuant to subsection (1) of this section.~~

~~—— (b) The documentation of the order shall be retained by the new telecommunications company, at a minimum, for twelve months to serve as verification of the customer's authorization to change telecommunications company. The documentation will be made available to the customer and to the commission upon request.~~

~~—— (3) Customer initiated orders. The new telecommunications company receiving the customer initiated request for a change of local exchange and/or intrastate toll shall keep an internal memorandum or record generated at the time of the request. Such internal record shall be maintained by the telecommunications company for a minimum of twelve months to serve as verification of the customer's authorization to change telecommunications company. The internal record will be made available to the customer and to the commission upon request.~~

~~Within three business days of the order, the telecommunications company must send each new customer an information package by first class mail containing at least the following information concerning the request to change as defined in subsection (2)(a)(ii), (iii), (iv), (v) of this section.~~

(5) Preferred carrier freezes. A preferred carrier freeze prevents a change in a subscriber's preferred carrier selection unless the subscriber gives the carrier from whom the freeze was requested express consent. Express consent means direct written or oral direction by the subscriber. All local exchange companies must offer preferred carrier freezes. Such freezes must be offered on a nondiscriminatory basis to all subscribers; and, in offering or soliciting such freezes, clearly distinguish among telecommunications services subject to a freeze (e.g., local exchange, intraLATA/intrastate toll, interLATA/interstate toll, and international toll). The carrier offering the freeze must obtain separate authorization for each service for which a preferred carrier freeze is requested. Separate authorizations may be contained within a single document.

(a) All local exchange companies must notify all customers of the availability of a preferred carrier freeze at the time service is ordered, and once per year thereafter on an individual customer basis (e.g., bill insert, bill message, or direct mailing).

(b) All carrier-provided solicitation and other materials regarding freezes must include an explanation, in clear and neutral language, of what a preferred carrier freeze is, and what services may be subject to a freeze; a description of the specific procedures to lift a preferred carrier freeze; an explanation that the subscriber will be unable to make a change in carrier selection unless he or she lifts the freeze; and an explanation of any charges incurred for implementing or lifting a preferred carrier freeze.

(c) No local exchange carrier may implement a preferred carrier freeze unless the subscriber's request to impose a freeze has first been confirmed in accordance with the procedures outlined for confirming a change in preferred carrier, as described in 480-120-139(1) and (2).

(d) All local exchange carriers must offer subscribers, at a minimum, the following procedures for lifting a preferred carrier freeze:

(i) A subscriber's written and signed authorization stating his or her intent to lift the freeze;

(ii) A subscriber's oral authorization to lift the freeze. This option must include a mechanism that allows a submitting carrier to conduct a three-way conference call with the executing carrier and the subscriber in order to lift the freeze. When engaged in oral authorization to lift a freeze, the executing carrier must confirm appropriate verification data (e.g., the subscriber's date of birth or social security number), and the subscriber's intent to lift the freeze.

(e) A local exchange company may not change a customer's preferred carrier if the customer has a freeze in place, unless the customer has lifted the freeze in accordance with this section.

~~(4)~~ (6) Remedies. In addition to any other penalties provided by law, a telecommunications company initiating an unauthorized change order a submitting carrier that requests a change in a subscriber's carrier without proper verification as described in this rule shall receive no payment for service provided as a result of the unauthorized change and shall promptly refund any amounts collected as a result of the unauthorized change. The subscriber may be charged, after receipt of the refund, for such service at a rate no greater than what would have been charged by its authorized telecommunications company, and any such payment shall be remitted to the customer's authorized telecommunications company.