

July 14, 2004

Marlene H. Dortch
Secretary
Federal Communications Commission
236 Massachusetts Avenue, N.E. Suite 110
Washington, D.C. 20002

RE: NASUCA's petition for Declaratory Ruling Regarding Truth-In-Billing and Billing Format
CG Docket No. 04-208
Comments of Consumers Union

Dear Ms. Dortch:

Pursuant to notice, Consumers Union,¹ The National Consumer Law Center ("NCLC"),² on behalf of and in conjunction with the Massachusetts Union of Public Housing Tenants ("MUPHT")³ submit the following comments on NASUCA's petition for Declaratory Ruling Regarding Truth-In-Billing and Billing Format.

Consumers Union, the independent nonprofit publisher of *Consumer Reports*, supports the NASUCA petition to investigate carrier practices related to line item charges on bills for wireline and wireless phone service; to declare certain practices in violation on the Commission's "Truth in Billing" Order and to prohibit carriers from imposing separate monthly fees, line items or surcharges unless expressly mandated by law or the

¹ *Consumers Union is a nonprofit membership organization chartered in 1936 under the laws of the state of New York to provide consumers with information, education, and counsel about goods, services, health, and personal finance; and to initiate and cooperate with individual and group efforts to maintain and enhance the quality of life for consumers. Consumers Union's income is solely derived from the sale of Consumer Reports, its other publications and from noncommercial contributions, grants and fees. In addition to reports on Consumers Union's own product testing, Consumer Reports, with approximately 4 million paid circulation, regularly carries articles on health, product safety, marketplace economics, and legislative, judicial, and regulatory actions which affect consumer welfare. Consumers Union's publications carry no advertising and receive no commercial support.*

² NCLC is a non-profit corporation organized under the laws of the Commonwealth of Massachusetts in 1971. Its purposes include representing the interest of low-income people and enhancing the rights consumers. Throughout its history, NCLC has worked to make utility services (telephone, gas, electricity, and water) more affordable and accessible to low-income households.

³ MUPHT is the oldest state-wide association of public and subsidized housing tenants in the United States. Its thirteen member board is elected from tenants who live in public or subsidized housing. The tenants who MUPHT represents are predominantly senior citizens living on small, fixed incomes and families with low-wage jobs. MUPHT is concerned, among other issues, that its members and other low-income people constantly struggle to pay their bills for necessities such as food, housing, medical care and utilities.

charge is expressly authorized by a governmental authority. The effect of granting NASUCA's petition will be to benefit consumers and increase competition in the wireline and wireless phone markets by:

- revealing the true cost of telecommunications services to consumers by including costs in the per-minute or standard monthly price
- allowing consumers to accurately compare prices by including add-on fees and surcharges in the advertised monthly cost of the service
- prohibiting misleading labels that make these fees appear to be government imposed or mandatory
- removing the incentive and opportunity to pad these fees and surcharges by including them in the advertised competitive price of the service rather than as a separate line item on the bill

Broken promises, misleading marketing, and dreadful service have almost become accepted business practices in the telecommunications marketplace. Consumers Union traces this shabby treatment in part to the trend toward deregulation. Opening telecommunications markets to competition from new entrants was promised to cut prices, expand choice, and improve service. Yet as we have detailed in our flagship publication *Consumer Reports* (see for example, *Consumer Reports*, July 2002) and other reports and papers, deregulation has negatively affected consumers on many levels.

Our research concluded that while some consumers have made some gains under deregulation, on balance they've lost ground. Service has typically deteriorated, consumer rights have eroded, and claimed price cuts are often not all they seem. It is the last point that the NASUCA petition will do the most to address. For customers of wireless service, the situation is even worse, as the market has developed without any set of consumer protection standards. Complaints about wireless phone service are on the rise and consistently rank at the top of complaint categories for organizations such as the Better Business Bureau and at state offices of Attorneys General.

Consumers are aware of and frustrated by the ever-growing number of add-on fees and surcharges that show up on their wireline and wireless phone bills. We hear frequently from consumers who believe they've been victims of a "bait and switch" or who find their so-called contract for wireless service one-sided as the carriers add new fees to the bottom line of the bill, increasing the costs to the consumer who signed up on a term plan.

Following is a sample of communications we have received from consumers regarding hidden fees and charges on phone bills:

Emails sent to Consumers Union's cell phone rights campaign website, www.EscapeCellHell.org:

Shopping for a cell plan, I find most of the carriers are advertising "phoney" prices.

I have asked AT&T Wireless for an explanation and will use it as my example. AT&T Wireless adds a \$1.75 "Regulatory Programs Fee" each month to its advertised prices such as \$39.99. I have asked for an explanation of the so-called fee. The response from AT&T Wireless, after some smoke and mirrors, acknowledges: "The Regulatory Programs Fee is not a tax or government required charge. It is an additional monthly charge created, assessed and collected by AT&T Wireless."

Let me emphasize it is a charge "created" by AT&T Wireless. It is no different than your favorite bricks and mortar merchant advertising an item for sale at \$39.99 and ringing it up at \$41.74 because in the fine print of the advertisement there is a \$1.75 "Governmental Regulation Recovery Fee". (It would be easy for any merchant to come up with much more than a 4.4% cost due to government regulations.)

Another example from EscapeCellHell:

I have been with Sprint PCS for about three years. I have experienced hidden fess and extra charges [under] my contract. Which when I question is explained in the strongest technical terms possible, THAT I NEVER UNDERSTAND (sic).

A Consumer Reports reader sent us a copy of his letter to AT&T:

In the trade of the confidence man, the technique is known as "bait and switch". Something is offered for a surprisingly low price, but when the bill comes you find that you have been had.

That is what your marketing people at AT&T are doing. I receive an offer, by mail, of local telephone service for \$22.95 a month..... I just got my first bill... Guess what? It was for \$63.21 including 17 different items that no one had ever mentioned. I phone your office and was told that the first month was always higher because of transition charges. I asked what would be my ongoing charge and was told it would be in the "low forties". So much for \$22.95.

From another reader:

Ever really look at your telephone bill? I did recently and couldn't believe the myriad of miscellaneous ways the telephone company has of getting money out of the consumer.

The NASUCA petition is the result of too many years of consumer dissatisfaction with the myriad of new charges and the frustration of trying to compare prices when shopping for telecommunications service. The "Truth-in-Billing" rules should mean just

that, phone bills should be truthful, as well as clear and understandable. Phone companies should not be allowed to play fast and loose with so-called “regulatory compliance” surcharges. While line item clutter purports to reveal all charges to consumers, it in fact results in effectively hiding the true cost of service, as measured by the amount of the check the customer writes to the carrier. The “Truth-in-Billing” guidelines were intended to clean up the clutter and help consumers make informed choices about their service. As the NASUCA petition and the consumer quotes above all too clearly illustrate, the principles have failed – and consumers are hurting.

Consumers Union, NCLC and MUPHT urge the Commission to adopt the NASUCA petition and grant the requested relief.

We appreciate your consideration of this issue.

Respectfully submitted,

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On behalf of the Massachusetts Union of
Public Housing Tenants