



ADMINISTRATIVE RULES OF MONTANA



38.5.3801 CHANGE IN TELECOMMUNICATIONS PROVIDER

- (1) A telecommunications carrier may not initiate or effect a change in a customer's primary interexchange carriers or local exchange company except:
 - (a) When the carrier initiating the change has obtained the customer's written or electronic signature authorization in a form that meets the letter of agency form and content requirements (as referenced below) ; or
 - (b) When the carrier initiating the change has obtained a customer's electronic authorization placed from the telephone number(s) on which the carrier is to be changed, to submit the order that confirms the information described in the letter of agency form and content (as referenced below) . Carriers electing to confirm customer authorizations electronically shall establish one or more toll-free telephone numbers exclusively for that purpose. Calls to the number(s) will connect a customer to a voice response unit, or similar mechanism, that records the required information regarding the carrier change, including automatically recording the originating ANI (automatic number identification) ; or
 - (c) When a qualified and independent third party operating in a location physically separate from the carrier's telemarketing representative has obtained a customer's verbal authorization to submit the carrier change, providing the third party verification includes:
 - (i) A statement that the purpose of the call is to verify the customer's intent to switch to the newly requested telecommunications carrier. The newly requested interexchange or local exchange telecommunications carrier must be clearly identified to the customer. Reference to use of another telecommunications carrier's network or facilities, if stated, must be secondary in nature to the prominent identification of the interexchange or local exchange carrier which will be providing service and setting the rates with the customer's consent for the customer's service.
 - (ii) Confirmation that the person whose authorization for a carrier change is being verified is the subscriber on the account or a person authorized by the subscriber to make decisions regarding the telephone account on behalf of the subscriber.
 - (iii) Verification data unique to the customer (e.g., the customer's date of birth or social security number) .
 - (iv) The name and toll free telephone number of the newly requested telecommunications carrier.
- (d) When the customer affected by the change initiates the contact with the carrier in order to request the change.

- (2) The independent third party may not be owned, managed, controlled, or directed by the carrier or the carrier's marketing agent; and may not have any financial incentive to confirm preferred carrier change orders for the carrier or the carrier's marketing agent; and must operate in a location physically separate from the carrier or the carrier's marketing agent. Any letter of agency, electronic authorization or verbal authorization verified by an independent third party that does not conform with this rule is invalid. Documentation of valid verbal authorization must demonstrate compliance with each element required by (1) (c) above.
- (3) An executing carrier shall not verify the submission of a change in a subscriber's selection of a provider of telecommunications service received from a submitting carrier. For an executing carrier, compliance with the procedures prescribed in this rule shall be defined as prompt execution, without any unreasonable delay, of changes that have been verified by a submitting carrier. The submitting carrier shall maintain and preserve records of verification of subscriber authorization for a minimum period of two years after obtaining such verification.
- (4) Where a telecommunications carrier 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 from the subscriber for each service sold, although the authorizations may be made within the same solicitation. Each authorization must be verified separately from any other authorizations obtained in the same solicitation. Each authorization must be verified in accordance with the verification procedures prescribed in this rule.

Authorizing statute(s): 69-3-822, 69-3-1301, 69-3-1302, 69-3-1303 and 69-3-1304, MCA

Implementing statute(s): 69-3-102, 69-3-201, 69-3-1303 and 69-3-1304, MCA

History: NEW, 1997 MAR p. 2088, Eff. 11/18/97; EMERG, AMD, 1999 MAR p. 1523, Eff. 7/2/99; AMD, 2003 MAR p. 2085, Eff. 9/26/03.