38.5.3904 LETTER OF AGENCY FORM AND CONTENT

(1) A telecommunications carrier or other entity initiating a product or service charge to be placed on a customer's telecommunications bill shall obtain any necessary written or electronically signed authorization from a subscriber by using a letter of agency as specified in this rule. Any letter of agency that does not conform with this rule is invalid.

(2) The letter of agency shall be a separate document (or an easily separable document) or located on a separate screen or webpage containing only the authorizing language described in (5) , the sole purpose of which is to authorize a charge to be placed on the customer's telecommunications bill for a product or service. The letter of agency must be signed and dated by the subscriber to the telecommunications account being authorized for the billing.

(3) The letter of agency shall not be combined on the same document, screen or webpage with inducements of any kind.

(4) Notwithstanding (2) and (3) of this rule, the letter of agency may be combined with checks that contain only the required letter of agency language prescribed in (5) of this rule and the necessary information to make the check a negotiable instrument. The letter of agency check shall not contain any promotional language or material. The letter of agency check shall contain, in easily readable, boldface type on the front of the check, a notice that the consumer is ordering a product or service and, by signing the check, is authorizing the billing for product or service on his telephone bill. The letter of agency language also shall be placed near the signature line on the back of the check.

(5) At a minimum, the letter of agency must be printed with a readable type of sufficient size to be clearly legible and must contain clear and unambiguous language that confirms:

- (a) the subscriber's billing name and address and the telephone number on which the charge for the product or service will be billed;
- (b) the decision to authorize the placement of the charge for the service or product on the subscriber's telephone bill; and
- (c) a clear description of the service or product being ordered.

(6) Letters of agency shall not suggest or require that a subscriber take some action in order to prevent the placement of the charge for the product or service on the customer's telephone bill.

(7) If any portion of a letter of agency is translated into another language, then all portions of the letter of agency must be translated into that language.

(8) Letters of agency submitted with an electronically signed authorization must include the consumer disclosures required by Section 101(c) of the Electronic Signatures in Global and National

Commerce Act (October 2000) which is adopted and incorporated by reference. A copy of this section may be obtained from the Commission, 1701 Prospect Avenue, P.O. Box 202601, Helena, Montana 59620-2601.

(9) A carrier or other entity shall submit an order for placement of the charge for the product or service on the subscriber's telephone bill within no more than 60 days of obtaining a written or electronically signed letter of agency authorizing the charge from the subscriber. However, letters of agency for multi-line and/or multi-location business customers that have entered into negotiated agreements with carriers to add presubscribed lines to their business locations during the course of a term of agreement shall be valid for the period specified in the term agreement.

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

Implementing statute(s): 69-3-1301, 69-3-1303 and 69-3-1304, MCA

History: NEW, 1999 MAR p. 2086, Eff. 9/24/99; AMD, 2003 MAR p. 2085, Eff. 9/26/03.