Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of	)	
	)	
Petition of Gregory Manasher, *et al.*, for a	)	
Declaratory Ruling on Applicability of the	)	
Communications Act and Commission Rules	)	CG Docket No. 98-170
regarding Truth-in-Billing	)	
	)	
On Referral by the United States District	)	
Court for the Eastern District of Michigan	)	

INITIAL COMMENTS OF THE NATIONAL ASSOCIATION OF STATE UTILITY CONSUMER ADVOCATES

The National Association of State Utility Consumer Advocates (NASUCA) is a voluntary, national association of consumer advocates in more than 40 states and the District of Columbia, organized in 1979.[1] NASUCA submits these initial comments in response to Public Notice No. DA 12-1651, which seeks comment on the petition for declaratory ruling of Gregory Manasher, *et al.*, on applicability of the Communications Act and Commission Rules regarding Truth-in-Billing.

As the Commission observes in the Public Notice, the Commission stated when adopting the Truth-in-Billing rules that a "carrier's provision of misleading or deceptive billing information is an unjust and unreasonable practice in violation of § 201(b) of the

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[1] NASUCA's members are designated by the laws of their respective states to represent the interests of utility consumers before state and federal regulators and in the courts. Members operate independently from state utility commissions, as advocates primarily for residential ratepayers. Some NASUCA member offices are separately established advocate organizations while others are divisions of larger state agencies (*e.g.*, the state Attorney General's office). Associate and affiliate NASUCA members also serve utility consumers, but have not been created by state law or do not have statewide authority.

Act."[2] NASUCA supports this common-sense conclusion. There is nothing more violative of the concept of Truth-in-Billing than the placement of charges on consumer bills with descriptions so vague that consumers cannot ascertain what the billings are for or whether the billings were authorized and hence owing. Yet the chronic problem occasioned by such billings has persisted for well in excess of a decade.

As the Commission stated specifically when adopting the Truth-in-Billing rules, the most glaring manifestation of consumer confusion was the historically dramatic growth in the number of slamming and cramming complaints.[3] As the Commission explained, "[M]isleading bills facilitate slamming and cramming."[4] Consumer difficulty in identifying unauthorized charges is "a significant factor in the ability of unscrupulous entities to engage successfully in cramming."[5] Unclear or cryptic telephone bills exacerbate both consumer confusion and the problem of cramming.[6] When requiring clear descriptions of billed charges, the Commission sought to assist consumers in understanding their bills and thereby to deter cramming.[7]

Yet cramming has remained a problem of "massive" proportions, likely affecting millions of consumers and costing them *billions* of dollars in unauthorized charges over

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[2] See *Truth-in-Billing and Billing Format*, First Report and Order and Further Notice of Proposed Rulemaking, 14 F.C.C.R. 7492 ¶ 24 (1999).

[3] *Id.* ¶ 3.

[4] *Id.* ¶ 11.

[5] *Id.* ¶ 24.

[6] *Id.* ¶ 39.

[7] *Id.* ¶ 38.

the past decade.[8] There may have been cramming violations here. According to the court, plaintiffs allege they were charged "fees they did not agree to."[9] That is the essence of cramming. The Commission has already determined that cramming is an unjust and unreasonable practice in violation of section 201(b).[10] The misleading billing practices that facilitate cramming also violate section 201(b).

For the foregoing reasons, NASUCA urges the Commission to conclude that a violation of the Truth-in-Billing rules is an "unjust and unreasonable practice" in violation of section 201(b) of the Act.

Respectfully submitted,

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[8] S. Hrg. 112-171, "Unauthorized Charges on Telephone Bills: Why Crammers Win and Consumers Lose," 112th Cong., 1st Sess., Committee on Commerce, Science and Transportation. United States Senate (July 13, 2011), p. 4.

[9] *Manascher v. NECC Telecom*, 2007 WL 2713845 *1 (E.D. Mich. 2007).

[10] See, *e.g.*, *Norristown Telephone Co.*, LLC, FCC 11-88, 26 F.C.C.R. 8844, 2011 WL 2433346 (FCC 2011) ¶ 9, citing *Long Distance Direct, Inc. Apparent Liability for Forfeiture,* 15 F.C.C.R. 3297, 3302, ¶ 14 (2000). NASUCA has urged the Commission to adopt an express regulatory prohibition against cramming. NASUCA, Initial Comments in Response to Notice of Proposed Rulemaking, Docket Nos. CG 11-116 *et al.* (Oct. 24, 2011), pp. 12-14; see NASUCA, Reply Comments in Response to Further Notice of Proposed Rule-Making, Docket Nos. CG 11-116 *et al.* (July 20, 2012), pp. 15-18.