

(I) THE DELIVERY OF THE INFORMATION; OR

(II) THE RESOLUTION OF ANY PROCEEDINGS, INCLUDING APPEALS OF ANY PROCEEDINGS, CONCERNING A SUBPOENA OR COURT ORDER ISSUED UNDER § 10-4A-04 OF THIS SUBTITLE.

(4) THE SERVICE PROVIDER SHALL RELEASE THE BACKUP COPY TO THE REQUESTING INVESTIGATIVE OR LAW ENFORCEMENT OFFICER NO SOONER THAN 14 DAYS AFTER THE DAY ON WHICH THE OFFICER GIVES NOTICE TO THE SUBSCRIBER OR CUSTOMER, IF THE SERVICE PROVIDER:

(I) HAS NOT RECEIVED NOTICE FROM THE SUBSCRIBER OR CUSTOMER THAT THE SUBSCRIBER OR CUSTOMER HAS CHALLENGED THE OFFICER'S REQUEST; AND

(II) HAS NOT INITIATED PROCEEDINGS TO CHALLENGE THE OFFICER'S REQUEST.

(5) (I) AN INVESTIGATIVE OR LAW ENFORCEMENT OFFICER MAY SEEK TO REQUIRE THE CREATION OF A BACKUP COPY UNDER SUBSECTION (A)(1) OF THIS SECTION IF, IN THE OFFICER'S SOLE DISCRETION, THE OFFICER DETERMINES THAT THERE IS REASON TO BELIEVE THAT NOTIFICATION TO THE SUBSCRIBER OR CUSTOMER UNDER § 10-4A-04 OF THIS SUBTITLE OF THE EXISTENCE OF THE SUBPOENA OR COURT ORDER MAY RESULT IN DESTRUCTION OF OR TAMPERING WITH EVIDENCE.

(II) A DETERMINATION UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH IS NOT SUBJECT TO CHALLENGE BY THE SUBSCRIBER OR CUSTOMER OR SERVICE PROVIDER.

(B) (1) WITHIN 14 DAYS AFTER A SUBSCRIBER OR CUSTOMER RECEIVES NOTICE FROM AN INVESTIGATIVE OR LAW ENFORCEMENT OFFICER UNDER SUBSECTION (A)(2) OF THIS SECTION, THE SUBSCRIBER OR CUSTOMER MAY FILE A MOTION TO QUASH THE SUBPOENA OR VACATE THE COURT ORDER. THE SUBSCRIBER OR CUSTOMER SHALL SERVE A COPY OF THE MOTION ON THE INVESTIGATIVE OR LAW ENFORCEMENT OFFICER AND GIVE WRITTEN NOTICE OF THE CHALLENGE TO THE SERVICE PROVIDER. A MOTION TO VACATE A COURT ORDER SHALL BE FILED IN THE COURT THAT ISSUED THE ORDER. A MOTION TO QUASH A SUBPOENA SHALL BE FILED IN THE APPROPRIATE COURT. A MOTION OR APPLICATION UNDER THIS SUBSECTION SHALL CONTAIN AN AFFIDAVIT OR SWORN STATEMENT STATING:

(I) THAT THE APPLICANT IS A CUSTOMER OR SUBSCRIBER TO THE SERVICE FROM WHICH THE CONTENTS OF ELECTRONIC COMMUNICATIONS MAINTAINED FOR THE APPLICANT HAVE BEEN SOUGHT; AND

(II) THE APPLICANT'S REASONS FOR BELIEVING THAT THE RECORDS SOUGHT ARE NOT RELEVANT TO A LEGITIMATE LAW ENFORCEMENT INQUIRY OR THAT THERE HAS NOT BEEN SUBSTANTIAL COMPLIANCE WITH THE PROVISIONS OF THIS CHAPTER IN SOME OTHER RESPECT.