

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

In the Matter of)	
)	
Verizon Long Distance)	IC No. 03-I0058025S
)	
Complaint Regarding)	
Unauthorized Change of)	
Subscriber's Telecommunications Carrier)	

ORDER ON RECONSIDERATION

Adopted: October 18, 2006

Released: October 19, 2006

By the Chief, Consumer & Governmental Affairs Bureau:

1. In this Order, we grant a Petition for Reconsideration filed by Verizon Long Distance¹ (Verizon) asking us to reverse a finding that Verizon changed the Complainant's telecommunications service provider without obtaining proper authorization and verification.² On reconsideration, we find that Verizon's actions did not violate the Commission's carrier change rules and deny the complaint.³

I. BACKGROUND

2. In December 1998, the Commission adopted rules prohibiting the practice of "slamming," the submission or execution of an unauthorized change in a subscriber's selection of a provider of telephone exchange service or telephone toll service.⁴ The rules were designed to take the profit out of slamming.⁵ The Commission applied the rules to all wireline carriers,⁶ and modified its existing requirements for the authorization and verification of preferred carrier changes.⁷

3. The rules require that a submitting carrier receive individual subscriber consent before a

¹ See Petition for Reconsideration of Verizon Long Distance (filed March 1, 2004) (*Petition*) seeking reconsideration of *Verizon Long Distance*, 19 FCC Rcd 1485 (2004) (*Division Order*), issued by the Consumer Policy Division (Division), Consumer & Governmental Affairs Bureau (CGB).

² See *Division Order*, 19 FCC Rcd 1485 (2004).

³ See 47 C.F.R. §§ 64.1100 – 64.1190.

⁴ See *id.*; see also 47 U.S.C. § 258(a).

⁵ See *Implementation of the Subscriber Carrier Selection Changes Provisions of the Telecommunications Act of 1996; Policies and Rules Concerning Unauthorized Changes of Consumers' Long Distance Carriers*, CC Docket No. 94-129, Second Report and Order and Further Notice of Proposed Rulemaking, 14 FCC Rcd 1508, 1512, para. 4 (1998) (*Section 258 Order*). See also *id.* at 1518-19, para. 13.

⁶ See *id.* at 1560, para. 85. CMRS providers were exempted from the verification requirements. See *Section 258 Order* at 1560-61, para. 85.

⁷ See *Section 258 Order*, 14 FCC Rcd at 1549, para. 66.

carrier change may occur.⁸ Specifically, a carrier must: (1) obtain the subscriber's written or electronically signed authorization; (2) obtain confirmation from the subscriber via a toll-free number provided exclusively for the purpose of confirming orders electronically; or (3) utilize an independent third party to verify the subscriber's order.⁹

4. The Commission also adopted liability rules for carriers that engage in slamming.¹⁰ If the subscriber has not already paid charges to the unauthorized carrier, the subscriber is absolved of liability for charges imposed by the unauthorized carrier for service provided during the first 30 days after the unauthorized change.¹¹ Where the subscriber has paid charges to the unauthorized carrier, the unauthorized carrier must pay 150% of those charges to the authorized carrier, and the authorized carrier must refund or credit the subscriber 50% of all charges paid by the subscriber to the unauthorized carrier.¹²

5. The Commission received a complaint on September 11, 2003, alleging that Complainant's telecommunications service provider had been changed from AT&T Corporation to Verizon without Complainant's authorization.¹³ Pursuant to Sections 1.719 and 64.1150 of the Commission's rules,¹⁴ the Division notified Verizon of the complaint.¹⁵ In its response, Verizon did not submit a third party verification or letter of agency as required by the Commission's rules, or any other evidence indicating that it had complied with the Commission's carrier change rules when it became Complainant's preferred carrier.¹⁶ The Division found that Verizon failed to produce clear and convincing evidence that Complainant authorized a carrier change and, therefore, that Verizon's actions resulted in an unauthorized change in Complainant's telecommunications service provider.¹⁷ Verizon seeks reconsideration of the *Division Order*.

II. DISCUSSION

6. Based on the record before us, we reverse the *Division Order* and grant Verizon's

⁸ See 47 C.F.R. § 64.1120. See also 47 U.S.C. § 258(a) (barring carriers from changing a customer's preferred local or long distance carrier without first complying with one of the Commission's verification procedures).

⁹ See 47 C.F.R. § 64.1120(c). Section 64.1130 details the requirements for letter of agency form and content for written or electronically signed authorizations. 47 C.F.R. § 64.1130.

¹⁰ See 47 C.F.R. §§ 64.1140, 64.1160-70.

¹¹ See 47 C.F.R. §§ 64.1140, 64.1160 (any charges imposed by the unauthorized carrier on the subscriber for service provided after this 30-day period shall be paid by the subscriber to the authorized carrier at the rates the subscriber was paying to the authorized carrier at the time of the unauthorized change).

¹² See 47 C.F.R. §§ 64.1140, 64.1170.

¹³ Informal Complaint No. IC-03-I0058025S, filed September 11, 2003.

¹⁴ 47 C.F.R. § 1.719 (Commission procedure for informal complaints filed pursuant to Section 258 of the Act); 47 C.F.R. § 64.1150 (procedures for resolution of unauthorized changes in preferred carrier).

¹⁵ See Notice of Informal Complaint No. IC 03-I0058025S, to Verizon from the Acting Deputy Chief, Division, CGB, dated October 24, 2003.

¹⁶ Verizon's Response to Informal Complaint No. IC 03-I0058025S, received November 26, 2003; see also 47 C.F.R. § 64.1120-64.1130.

¹⁷ *Division Order* at 19 FCC Rcd 1486-87, para. 4.

Petition. In the *Petition*, Verizon states that the Commission issued an order granting Verizon's petition for waiver of the Commission's carrier change rules and, pursuant to this waiver, Verizon initiated a bulk transfer of customers including the Complainant to Verizon.¹⁸ Although Verizon did not include this information with its initial response, we find that the waiver had been issued prior to the time the complaint was filed. Accordingly, we find that Verizon did not violate the Commission's carrier change rules, and we grant Verizon's *Petition*.

III. ORDERING CLAUSES

7. Accordingly, IT IS ORDERED that, pursuant to Section 258 of the Communications Act of 1934, as amended, 47 U.S.C. § 258, and Sections 0.141, 0.361, 1.106 and 1.719 of the Commission's rules, 47 C.F.R. §§ 0.141, 0.361, 1.106, 1.719, the petition for reconsideration filed by Verizon on March 8, 2004, IS GRANTED and the complaint filed against Verizon on March 1, 2004, IS DENIED.

8. IT IS FURTHER ORDERED that this Order is effective UPON RELEASE.

FEDERAL COMMUNICATIONS COMMISSION

Monica S. Desai, Chief
Consumer & Governmental Affairs Bureau

¹⁸ See *Petition* at 2-3. See also *Implementation of the Subscriber Carrier Selection Changes Provisions of the Telecommunications Act of 1996; Bell Atlantic Communications, Inc., d/b/a Verizon Long Distance, and NYNEX Long Distance, Inc., d/b/a Verizon Enterprise Solutions*, CC Docket No. 94-129, Order, 15 FCC Rcd 24680 (2000).