

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

In the Matter of)	
)	
Sprint Communications Company)	IC No. 03-S85133
)	
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 Sprint Communications Co., L.P.¹ (Sprint) asking us to reverse a finding that Sprint changed Complainant's telecommunications service provider in violation of the Commission's rules by failing to obtain proper authorization and verification.² On reconsideration, we find that Sprint'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 Sprint Communications Co., L.P. (filed October 28, 2004) (*Petition*) seeking reconsideration of *Sprint Communications Company*, 19 FCC Rcd 18953 (2004) (*Division Order*), issued by the Consumer Policy Division (Division), Consumer & Governmental Affairs Bureau (CGB).

² See *Division Order*, 19 FCC Rcd 18953 (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.

4. The Commission also adopted liability rules for carriers that engage in slamming.⁹ 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.¹⁰ 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.¹¹

5. The Commission received a complaint on September 29, 2003, alleging that Complainant's telecommunications service provider had been changed from AT&T Corporation (AT&T) to Sprint without Complainant's authorization.¹² Pursuant to Sections 1.719 and 64.1150 of the Commission's rules,¹³ the Division notified Sprint of the complaint.¹⁴ Sprint responded that authorization was received and confirmed through third party verification.¹⁵ In the *Division Order*, the Division found that Sprint's verifier failed to confirm that the person on the call was authorized to make the carrier change¹⁶ and, therefore, that Sprint's actions resulted in an unauthorized change in Complainant's telecommunications service provider.¹⁷ Sprint seeks reconsideration of the *Division Order*, arguing that its verifier did in fact confirm that the person on the call was authorized to make the carrier change.¹⁸

II. DISCUSSION

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

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. §§ 64.1140, 64.1160-70.

¹⁰ 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).

¹¹ See 47 C.F.R. §§ 64.1140, 64.1170.

¹² Informal Complaint No. IC 03-S85133, filed September 29, 2003.

¹³ 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).

¹⁴ See Notice of Informal Complaint No. IC 03-S85133, to Sprint from the Acting Deputy Chief, Division, CGB, dated October 24, 2003.

¹⁵ Sprint's Response to Informal Complaint No. IC 03-S85133, February 5, 2004.

¹⁶ See 47 C.F.R. § 64.1120(c)(3)(iii).

¹⁷ See 47 C.F.R. § 64.1150(d); see also *Division Order* at 19 FCC Rcd 18955, para. 4.

¹⁸ See *Petition* at 1.

Upon further review of Sprint's verification recording, we concur with Sprint that Sprint's verifier did confirm that the person on the call was authorized to make the carrier change. Consequently, we find that Sprint did not violate the Commission's carrier change rules, and we grant Sprint'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 Sprint Communications Company on October 28, 2004, IS GRANTED and the complaint filed against Sprint Communications Company on September 29, 2003, 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