

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

In the Matter of)	
)	
U.S. Telecom Long Distance, Inc.)	IC No. 05-S89269
)	
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 U.S. Telecom Long Distance Service, Inc.¹ (U.S. Telecom) asking us to reverse a finding that U.S. Telecom 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 U.S. Telecom'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 U.S. Telecom Long Distance, Inc. (filed October 28, 2005) (*Petition*) seeking reconsideration of *U.S. Telecom Long Distance, Inc.*, 20 FCC Rcd 15358 (2005) (*Division Order*), issued by the Consumer Policy Division (Division), Consumer & Governmental Affairs Bureau (CGB).

² See *Division Order*, 20 FCC Rcd 15358 (2005).

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 These rules require the carrier to absolve the subscriber where the subscriber has not paid his or her bill. 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 Commission's rules require that the unauthorized carrier pay 150% of those charges to the authorized carrier, and the authorized carrier shall refund or credit to the subscriber 50% of all charges paid by the subscriber to the unauthorized carrier.

5. The Commission received a complaint on March 21, 2005, alleging that Complainant's telecommunications service provider had been changed from Covista Communications to U.S. Telecom without Complainant's authorization.¹² Pursuant to Sections 1.719 and 64.1150 of the Commission's rules,¹³ the Division notified U.S. Telecom of the complaint.¹⁴ In response, U.S. Telecom stated that authorization was received and confirmed through third party verification.¹⁵ In the *Division Order*, the Division found that U.S. Telecom's verifier failed to obtain separate authorization for each service sold, as required by the Commission's rules,¹⁶ and that U.S. Telecom's actions resulted in an unauthorized change in Complainant's telecommunications service provider.¹⁷ U.S. Telecom seeks reconsideration of the *Division Order*.

II. DISCUSSION

6. Based on the record before us, we reverse the *Division Order* and grant the *Petition*. In the *Petition*, U.S. Telecom argues that it only changed Complainant's interLATA service, *i.e.*, there was

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 Informal Complaint No. IC-05-S89269, filed March 21, 2005.

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 to U.S. Telecom from the Deputy Chief, Division, CGB, dated May 25, 2005.

¹⁵ U.S. Telecom's Response to Informal Complaint No. IC 05-S89269, received June 20, 2005.

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

¹⁷ See 47 C.F.R. § 64.1150(d).

only one type of service sold by U.S. Telecom to Complainant and, thus, there could not be a violation of the rule requiring separate authorization for each service sold.¹⁸ Upon further review of U.S. Telecom's verification recording, we agree with U.S. Telecom that there was only one service sold. Therefore, we find that the carrier change to U.S. Telecom was valid. Accordingly, we grant the *Petition* and find that U.S. Telecom did not violate the Commission's carrier change rules.

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 U.S. Telecom Long Distance, Inc. on October 28, 2005, IS GRANTED and the complaint filed against U.S. Telecom Long Distance, Inc. on March 21, 2005, 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 1.