

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

In the Matter of)	
)	
Telecom Management, Inc.)	IC Nos. 06-I0214126S
d/b/a Pioneer Telephone)	06-S0215962
)	
Complaints Regarding)	
Unauthorized Change of)	
Subscriber's Telecommunications Carrier)	

ORDER ON RECONSIDERATION

Adopted: March 27, 2007

Released: March 28, 2007

By the Chief, Consumer & Governmental Affairs Bureau:

1. In this Order, we grant a Petition for Reconsideration filed by Telecom Management, Inc. d/b/a Pioneer Telephone (Pioneer) asking us to reverse a finding that Pioneer changed Complainants' telecommunications service providers in violation of the Commission's rules by failing to obtain proper authorization and verification.¹ On reconsideration, we find that Pioneer did not violate the Commission's carrier change rules because Adelphia Long Distance (Adelphia) was responsible for the unauthorized changes.² We therefore grant Pioneer's *Petition*.

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.³ The rules were designed to take the profit out of slamming.⁴ The Commission applied the rules to all wireline carriers,⁵ and modified its existing requirements for the authorization and verification of preferred carrier changes.⁶

¹ See Petition for Reconsideration of Telecom Management, Inc. d/b/a Pioneer Telephone (filed May 12, 2006) (*Petition*) seeking reconsideration of *Telecom Management, Inc. d/b/a Pioneer Telephone*, 21 FCC Rcd 4168 (2006) (*Division Order*), issued by the Consumer Policy Division (Division), Consumer & Governmental Affairs Bureau (CGB).

² See 47 C.F.R. §§ 64.1100 – 64.1190.

³ See *id.*; see also 47 U.S.C. § 258(a).

⁴ 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.

⁵ See *id.* at 1560, para. 85. CMRS providers were exempted from the verification requirements. See *id.*

⁶ See *id.* at 1549, para. 66.

3. The rules require that a submitting carrier receive individual subscriber consent before a carrier change may occur.⁷ 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.⁸

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 two complaints alleging that Complainants' telecommunications service providers had been changed from their authorized carriers to Adelphia without Complainants' authorization.¹² Pursuant to Sections 1.719 and 64.1150 of the Commission's rules,¹³ the Division notified Adelphia of the complaints.¹⁴ In its responses, Adelphia stated that it switched the Complainants' service collectively, due to a human error.¹⁵ In addition, Adelphia noted that it had sold assets to Pioneer.¹⁶ Therefore, the Division named Pioneer in the *Division Order* and found that Pioneer failed to produce clear and convincing evidence of valid change authorizations and, thus, its

⁷ 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).

⁸ 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.

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. 06-I0214126S, filed January 3, 2006; Informal Complaint No. 06-S0215962, filed February 2, 2006.

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. 06I021426S to Adelphia Long Distance from the Deputy Chief, Division, CGB, dated January 25, 2006; Notice of Informal Complaint No. 06-S0215962 to Adelphia Long Distance from the Deputy Chief, Division, CGB, dated January 27, 2006.

¹⁵ See Adelphia Long Distance's Response to Informal Complaint No. 06-I021412S, received February 2, 2006; Adelphia Long Distance's Response to Informal Complaint No. 06-S0215962, received February 2, 2006 (collectively, *Adelphia Responses*).

¹⁶ See *Adelphia Responses*. Specifically, Pioneer entered into a Purchase and Management Agreement to acquire Adelphia's long distance customer base whereby Pioneer would manage the operations and service the customer base under Adelphia's trade name until the transaction closed in late February 2006. Pioneer did not purchase any other Adelphia assets or the company itself. See *Petition* at 1.

actions violated the Commission's carrier change rules.¹⁷ Pioneer seeks reconsideration of the *Division Order*.

II. DISCUSSION

6. Based on the record before us, we grant the *Petition*. In the *Petition*, Pioneer requests that the Commission change the name on the *Division Order* to Adelphia Telecommunications, Inc. d/b/a Adelphia Long Distance. Pioneer's *Petition* suggests that Adelphia, not Pioneer, was responsible for the change in Complainants' telecommunications service providers.¹⁸ Pioneer notes that the complaints were prepared in Adelphia's name and sent directly to Adelphia and not Pioneer for responses, and that Adelphia responded directly to the Commission. Pioneer states that the Division nevertheless issued the *Division Order* in Pioneer's name rather than Adelphia's name.¹⁹

7. On reconsideration, we agree that the *Division Order* should be in the name of Adelphia instead of Pioneer. Adelphia alone was served with the complaints, Adelphia alone responded, and Adelphia was operational at the time the *Division Order* was issued. We note that this decision is not meant to address, for example, a situation where a carrier has wholly acquired another carrier or has acquired a bankrupt carrier's customer base. Consequently, we grant the *Petition* and change the caption name on the *Division Order* by substituting "Adelphia Telecommunications, Inc. d/b/a Adelphia Long Distance" in place of "Telecom Management, Inc. d/b/a Pioneer Telephone." In addition, we change all references made by the Division in the text of the *Division Order* by substituting "Adelphia" in place of "Pioneer."

III. ORDERING CLAUSES

8. 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 Telecom Management, Inc. d/b/a Pioneer Telephone on May 12, 2006, IS GRANTED.

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

FEDERAL COMMUNICATIONS COMMISSION

Catherine W. Seidel, Chief
Consumer & Governmental Affairs Bureau

¹⁷ See 47 C.F.R. § 64.1150(d).

¹⁸ See *Petition* at 1.

¹⁹ *Id.*