

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

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| In the Matter of                        | ) |                    |
|   | ) |                    |
| Qwest Communications, Inc.              | ) | IC No. 07-S0276098 |
|   | ) |                    |
| Complaint Regarding                     | ) |                    |
| Unauthorized Change of                  | ) |                    |
| Subscriber's Telecommunications Carrier | ) |                    |

**ORDER ON RECONSIDERATION**

**Adopted: February 19, 2008**

**Released: February 19, 2008**

By the Chief, Consumer & Governmental Affairs Bureau:

1. In this Order, we deny a Petition for Reconsideration filed by Complainant<sup>1</sup> asking us to reverse a finding that Qwest Communications, Inc. (Qwest) did not change Complainant's telecommunications service provider without obtaining proper authorization and verification.<sup>2</sup> On reconsideration, we affirm that Qwest's actions did not violate the Commission's carrier change rules.<sup>3</sup>

**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.<sup>4</sup> The rules were designed to take the profit out of slamming.<sup>5</sup> The Commission applied the rules to all wireline carriers,<sup>6</sup> and modified its existing requirements for the authorization and verification of preferred carrier changes.<sup>7</sup>

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

<sup>1</sup> See Petition for Reconsideration of Complainant (filed October 23, 2007) (*Petition*) seeking reconsideration of *Qwest Communications, Inc.*, 22 FCC Rcd 17384 (2007) (*Division Order*), issued by the Consumer Policy Division (Division), Consumer & Governmental Affairs Bureau (CGB).

<sup>2</sup> See *Division Order*, 22 FCC Rcd 17384 (2007).

<sup>3</sup> See 47 C.F.R. §§ 64.1100 – 64.1190.

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

<sup>5</sup> 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.

<sup>6</sup> See *id.* at 1560, para. 85. CMRS providers were exempted from the verification requirements. See *id.*

<sup>7</sup> See *id.* at 1549, para. 66.

carrier change may occur.<sup>8</sup> 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.<sup>9</sup>

4. The Commission also adopted liability rules for carriers that engage in slamming.<sup>10</sup> 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.<sup>11</sup> 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 shall refund or credit to the subscriber 50% of all charges paid by the subscriber to the unauthorized carrier.<sup>12</sup>

5. The Commission received a complaint on April 2, 2007, alleging that Complainant's telecommunications service provider had been changed without Complainant's authorization.<sup>13</sup> Pursuant to Sections 1.719 and 64.1150 of the Commission's rules,<sup>14</sup> the Division notified Qwest of the complaint.<sup>15</sup> In response, Qwest stated that, based on information it received from Complainant's local exchange carrier (LEC), Qwest switched Complainant's telephone service. The Division then notified Complainant's LEC of the complaint and Qwest's response.<sup>16</sup> Based on Qwest's response, coupled with information received from Complainant's LEC,<sup>17</sup> the Division found that the matter involved billing issues and that there was no unauthorized switch by Qwest. As a result, the Division concluded that Qwest did not violate the Commission's carrier change rules.<sup>18</sup> Complainant seeks reconsideration of the *Division Order*.

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<sup>8</sup> 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).

<sup>9</sup> 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.

<sup>10</sup> See 47 C.F.R. §§ 64.1140, 64.1160-70.

<sup>11</sup> 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).

<sup>12</sup> See 47 C.F.R. §§ 64.1140, 64.1170.

<sup>13</sup> Informal Complaint No. IC 07-S0276098, filed April 2, 2007.

<sup>14</sup> 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).

<sup>15</sup> See Notice of Informal Complaint No. IC 07-S0276098, to Qwest from the Deputy Chief, Division, CGB, dated May 22, 2007.

<sup>16</sup> See Notice of Informal Complaint No. IC 07-S0276098, to AT&T, Inc. from the Deputy Chief, Division, CGB, dated June 21, 2007.

<sup>17</sup> AT&T Illinois's Response to Informal Complaint No. IC 07-S0276098, received July 5, 2007 (AT&T Illinois Response). AT&T Illinois responded on behalf of AT&T, Inc.

<sup>18</sup> See *Division Order*, 22 FCC Rcd 17384 (2007).

## II. DISCUSSION

6. Based on the record before us, we deny Complainant's *Petition*. We concur with the Division that the matters described in the complaint involve a billing dispute as opposed to an unauthorized switch by Qwest. In his *Petition*, Complainant states only that he "authorized a switch by Qwest under one condition. This was the specific charge for calls to Poland. Qwest did not comply with the condition as promised, and billed me at [a] much higher rate."<sup>19</sup> While Complainant states that Qwest charged a higher rate than he expected, he acknowledges that he authorized the switch itself. In addition, Complainant's LEC stated that its records indicated Complainant selected Qwest as his long distance and local toll provider on November 30, 2006.<sup>20</sup> Because there was no unauthorized switch, we deny Complainant's *Petition*.

## IV. 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 Complainant on October 23, 2007, IS DENIED.

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

FEDERAL COMMUNICATIONS COMMISSION

Catherine W. Seidel, Chief  
Consumer & Governmental Affairs Bureau

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<sup>19</sup> *Petition* at 1.

<sup>20</sup> See AT&T Illinois Response at 1.