

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

In the Matter of	)	
	)	
Charter Communications	)	IC No. 10-S2877004
	)	
Complaint Regarding	)	
Unauthorized Change of	)	
Subscriber's Telecommunications Carrier	)	

**ORDER ON RECONSIDERATION**

**Adopted: October 3, 2011**

**Released: October 4, 2011**

By the Acting Deputy Chief, Consumer & Governmental Affairs Bureau:

1. In this Order on Reconsideration, we grant a Petition for Reconsideration filed by Charter Communications (Charter), asking us to reconsider an Order finding that Charter changed the complainant's telecommunications service provider in violation of the Commission's rules.<sup>1</sup> On reconsideration, we find that, because the service in question was Voice over Internet Provider (VoIP), Charter's actions did not violate the Commission's carrier change rules, which do not apply to such service. We accordingly grant Charter's *Petition* and dismiss the complaint.<sup>2</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>3</sup> The rules were designed to combat and deter slamming by taking the profit out of the practice.<sup>4</sup> The Commission applied the rules to all wireline carriers,<sup>5</sup> and modified its existing requirements for the authorization and verification of preferred carrier changes.<sup>6</sup>

3. The Commission's carrier change rules require that a submitting carrier receive

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<sup>1</sup> See Petition for Reconsideration of Charter Communications, (filed February 22, 2011) (*Petition*) seeking reconsideration of *Charter Communications*, Order, 26 FCC Rcd 613 (2011) (*Division Order*), issued by the Consumer Policy Division (Division), Consumer & Governmental Affairs Bureau (CGB).

<sup>2</sup> See 47 C.F.R. §§ 64.1100 – 64.1190.

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

<sup>4</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>5</sup> See *id.* at 1560, para. 85. CMRS providers were exempted from the verification requirements. See *id.*

<sup>6</sup> See *id.* at 1549, para. 66.

individual subscriber consent before a carrier change may occur.<sup>7</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>8</sup>

4. The Commission also adopted rules regarding carrier liability for service charges where slamming has occurred.<sup>9</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>10</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 must refund or credit to the subscriber 50% of all charges paid by the subscriber to the unauthorized carrier.<sup>11</sup>

5. The Commission received the subject complaint on November 22, 2010, alleging that the complainant's telecommunications service provider had been changed to Charter without the complainant's authorization.<sup>12</sup> Pursuant to Sections 1.719 and 64.1150 of the Commission's rules,<sup>13</sup> the Division notified Charter of the complaint.<sup>14</sup> In its response, Charter represented that authorization was obtained by third party verification (TPV), but it did not provide a copy of the TPV recording.<sup>15</sup> Accordingly, the Division granted the complaint due to Charter's failure to provide such a recording.<sup>16</sup> By its subject Petition, Charter seeks reconsideration of the *Division Order*.

## II. DISCUSSION

6. Based on the record before us, we set aside the *Division Order*, grant the *Petition* and dismiss the complaint. In its *Petition*, Charter states that it is a provider of VoIP services, and that the complaint in question concerns such service.<sup>17</sup> As the Commission has previously stated, the carrier

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<sup>7</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>8</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>9</sup> See 47 C.F.R. §§ 64.1140, 64.1160-70.

<sup>10</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>11</sup> See 47 C.F.R. §§ 64.1140, 64.1170.

<sup>12</sup> Informal Complaint No. IC 10-S2877004, filed November 22, 2010.

<sup>13</sup> 47 C.F.R. § 1.719 (Commission procedure for informal complaints filed pursuant to 47 U.S.C. § 258); 47 C.F.R. § 64.1150 (procedures for resolution of unauthorized changes in preferred carrier).

<sup>14</sup> Notice of Informal Complaint No. IC 10-S2877004 to Charter Communications from the Deputy Chief, Division, dated December 3, 2010.

<sup>15</sup> Charter Communication's Response to Informal Complaint No. IC 10-S2877004, received December 22, 2010.

<sup>16</sup> See *Division Order*, 26 FCC Rcd 613 (2011); see also 47 C.F.R. § 64.1150(d).

<sup>17</sup> See *Petition* at 1.

change rules have not been extended to VoIP.<sup>18</sup> We conclude that, as a VoIP provider, Charter did not violate the Commission's carrier change rules, which do not apply to such services. Therefore, we set aside the *Division Order*, grant the *Petition*, and dismiss the complaint.<sup>19</sup>

### 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 filed by Charter Communications on February 22, 2011, IS GRANTED and the complaint filed against Charter on November 22, 2010, IS DISMISSED.

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

FEDERAL COMMUNICATIONS COMMISSION

William D. Freedman  
Acting Deputy Chief  
Consumer & Governmental Affairs Bureau

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<sup>18</sup> See generally 47 C.F.R. §§ 64.1100(b)(d). We note that the Commission has sought comment on whether it is necessary to extend slamming regulations to VoIP or other IP-enabled service providers. See *Enabled Services*, WC Docket No. 04-36, Notice of Proposed Rulemaking, 19 FCC Rcd 4863, 4910-11, paras. 71-72 (2004).

<sup>19</sup> Charter's *Petition* references *Charter Communications*, 22 FCC Rcd 20789 (2007), wherein the Division previously denied a slamming complaint because VoIP service was involved. We note that, in that case, Charter's response to the complaint provided sufficient information enabling the Division to conclude that VoIP service was involved. In the instant case, Charter's original response to the complaint was not sufficiently clear to enable the Division to ascertain that VoIP service was involved.