

**Before the  
Federal Communications Commission  
Washington, DC 20554**

In the Matter of	)	
	)	
New Century Telecom, Inc.	)	File No.: EB-TCD-16-00021655
	)	FRN: 0003764495

**ADMONISHMENT ORDER**

**Adopted: May 17, 2016**

**Released: May 17, 2016**

By the Division Chief, Telecommunications Consumers Division:

**I. INTRODUCTION**

1. We hereby admonish New Century Telecom, Inc. (New Century or Company) for failing to comply with a Federal Communications Commission (FCC or Commission) subpoena to produce certain information and documents. The document request was in connection with an Enforcement Bureau (Bureau) investigation into the Company's compliance with the Communications Act (Act) and the Commission's rules (Rules) regarding potential violations of Sections 201(b) and 258 of the Act and Section 64.1120 of the Rules regarding slamming and cramming. We also admonish New Century for failing to provide current contact information for its listed agent for service of process. In addition, we order New Century to report to the Bureau within thirty (30) calendar days why the Commission should not (1) determine that New Century lacks the qualifications to hold Commission authorizations, (2) initiate proceedings against New Century to revoke its Commission authorizations, or (3) issue an order declaring that the Company's authorizations have terminated.

**II. BACKGROUND**

2. New Century is a non-facilities based interexchange carrier that is authorized to provide domestic and international long distance telecommunications service.<sup>1</sup> New Century's President is Karyn L. Bartel.<sup>2</sup> The Bureau initiated an investigation of New Century based on complaints from consumers alleging that New Century charged them for long distance service without their authorization. On June 8, 2015, the Bureau issued a subpoena to the Company seeking information and documents about New

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<sup>1</sup> New Century's address of record, as provided on the Company's November 2015 FCC Form 499-Q worksheet and April 2015 FCC Form 499-A is 3050 Royal Blvd. South, Suite 175, Alpharetta, Georgia 30022. New Century's agent for service of process is The Compliance Group, Inc. See New Century FCC Form 499-Q Telecommunications Reporting Worksheet (filed Oct. 19, 2015) (on file in EB-TCD-13-00007004) (New Century Form 499-Q); New Century 2015 FCC Form 499-A Telecommunications Reporting Worksheet (Reporting 2014 Revenue) (filed Mar. 2, 2015) (on file in EB-TCD-13-00007004) (New Century 2015 Form 499-A). New Century is authorized under Section 214 of the Act to provide resold domestic and international telecommunications services. See 47 U.S.C. § 214; see also *Domestic Section 214 Application Filed for Consent to Transfer Control of New Century Telecom, Inc.*, 17 FCC Rcd 16245 (2002) (approval to transfer control of New Century from Kathleen Helein to Karyn Bartel).

<sup>2</sup> Karyn L. Bartel is identified on the FCC Form 499-Q and FCC Form 499-A worksheets as the president of New Century. See New Century Form 499-Q at 1, New Century Form 499-A at 8. See also New Century 2016 FCC Form 499-A Telecommunications Reporting Worksheet (Reporting 2015 Revenue) (filed Mar. 1, 2016) (New Century 2016 Form 499-A) at 8 (listing Karyn L. Bartel as New Century's president).

Century's business and its practices related to the provision of telecommunications services.<sup>3</sup> The subpoena sought information and documents related to New Century's submission of carrier change requests and charges it placed on consumers' telephone bills. The subpoena ordered the Company to produce consumer complaints and evidence that it had complied with the Commission's verification procedures prior to switching consumers' long distance service providers. The subpoena was mailed to New Century's address of record—3050 Royal Blvd. South, Suite 175, Alpharetta, Georgia.

3. New Century's response to the subpoena was due July 8, 2015. The subpoena, however, was returned to the Bureau on August 3, 2015, after being unclaimed at New Century's business location. The Bureau then sent New Century a letter on September 28, 2015, ordering the Company to provide full and complete responses to the subpoena within seven days and warning New Century of the consequences for failing to do so.<sup>4</sup> The Warning Letter was also mailed to New Century's listed agent for service of process, The Commpliance Group, Inc., pursuant to Section 1.47 of the Commission's Rules<sup>5</sup> and e-mailed to Ms. Bartel at the e-mail address she provided on the Company's FCC Form 499-A worksheet.<sup>6</sup>

4. The Warning Letters sent to New Century at its Alpharetta address and to The Commpliance Group, Inc., at the address provided on New Century's FCC Form 499-A were returned to the Bureau as undeliverable at both locations. The Bureau subsequently mailed the Warning Letter to an updated address for New Century's agent for service of process.<sup>7</sup> The Commpliance Group, Inc., confirmed that it is New Century's agent for service of process and accordingly accepted service of the Warning Letter and the subpoena on October 13, 2015, on behalf of New Century.<sup>8</sup> The Bureau, however, has not received a response from New Century to date.

### III. DISCUSSION

5. We find that New Century violated a Commission order when it failed to respond to a Commission subpoena to produce certain information and documents in connection with the Bureau's investigation of New Century for potential violations of the Act and Rules related to slamming and cramming.<sup>9</sup> We also find that New Century violated Section 1.47(h) of the Rules by failing to notify the Commission of an address change for its designated agent for service of process.

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<sup>3</sup> See Subpoena to New Century Telecom, Inc., FCC File No. EB-TCD-13-00007004 (June 8, 2015) (on file in EB-TCD-13-00007004).

<sup>4</sup> See Letter from Richard A. Hindman, Chief, Telecommunications Consumers Division, FCC Enforcement Bureau, to Karyn Bartel, President, New Century Telecom, Inc., and The Commpliance Group, Inc., Agent for Service of Process for New Century (Sept. 28, 2015) (on file in EB-TCD-13-00007004) (Warning Letter).

<sup>5</sup> Section 1.47(h) provides that “[e]very common carrier . . . shall designate an agent in the District of Columbia, and may designate additional agents if it so chooses, upon whom service . . . may be made for and on behalf of such carrier . . . . Each Telecommunications Reporting Worksheet filed annually by a common carrier . . . must contain a name, business address, telephone or voicemail number, facsimile number, and, if available, Internet e-mail address for its designated agents . . . . Carriers . . . must notify the Commission within one week of any changes in their designation information.” 47 CFR § 1.47(h). See also 47 U.S.C. § 413, 47 CFR § 64.1195.

<sup>6</sup> See New Century 2015 FCC Form 499-A at 8 (filed Mar. 2, 2015).

<sup>7</sup> New Century had not provided current contact information on the FCC Form 499-A for its listed agent for service of process, The Commpliance Group, Inc., as required by Section 1.47(h) of the Rules. The Bureau, therefore, conducted independent research online to find the current mailing address for The Commpliance Group.

<sup>8</sup> The Bureau contacted The Commpliance Group, Inc., by telephone on October 19, 2015, and The Commpliance Group confirmed that it is New Century's agent for service of process and that it would forward the subpoena to New Century.

<sup>9</sup> “Slamming” is the submission or execution of a preferred carrier change without proper authorization verified in compliance with the Commission's verification rules. See 47 U.S.C. § 258; 47 CFR § 64.1120 *et seq.* “Cramming” (continued...)

6. Sections 218, 403, and 409(e) of the Act give the Commission broad power to compel carriers such as New Century to provide information and documents in connection with investigations into a carrier's compliance with the Act and Rules. Section 218 authorizes the Commission to "obtain from . . . carriers . . . full and complete information necessary to enable the Commission to perform the duties and carry out the objects for which it was created."<sup>10</sup> Section 403 states that "[t]he Commission shall have the same powers and authority to proceed with any inquiry . . . including the power to make and enforce any order or orders in the case, or relating to the matter or thing concerning which the inquiry is had."<sup>11</sup> Section 409(e) provides that the Commission "shall have the power to require by subpoena the attendance and testimony of witnesses and the production of all books, papers, schedules of charges, contracts, agreements, and documents relating to any matter under investigation."<sup>12</sup> Finally, the Rules authorize the Bureau to issue non-hearing related subpoenas for any records relevant to an investigation.<sup>13</sup>

7. The subpoena directed to New Century was a legal order of the Commission to produce the requested documents and information.<sup>14</sup> The Bureau mailed the subpoena and subsequent Warning Letter to the address of record for New Century as well as to its identified agent for service.<sup>15</sup> The Warning Letter was also e-mailed to New Century's president, Ms. Bartel. As recently as October 19, 2015, Ms. Bartel filed the Company's FCC Form 499-Q worksheet identifying herself as president and reporting the company's telecommunications revenue projections.<sup>16</sup> Further, Ms. Bartel signed New Century's annual Customer Proprietary Network Information (CPNI) Certification, certifying that "I am an officer of New Century Telecom, Inc. [] and that I am authorized to make this certification on behalf of New Century Telecom. I have personal knowledge that New Century Telecom has established operating procedures that are adequate to ensure compliance with the Federal Communications Commission's rules governing Customer Proprietary Network Information."<sup>17</sup> Neither Ms. Bartel nor New Century has responded to the subpoena. The subpoena was unclaimed by New Century at its business address, but New Century's agent accepted service of the Warning Letter and the subpoena on behalf of New Century.

8. Based on the forgoing, we find that New Century's failure to provide the information and documents sought constitutes a violation of a Commission order and that the Company's failure to update

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is the unjust and unreasonable practice of charging consumers on their telephone bill for services that they did not authorize. *See* 47 U.S.C. § 201(b).

<sup>10</sup> *Id.* § 218.

<sup>11</sup> *Id.* § 403.

<sup>12</sup> *Id.* § 409(e); *see also id.* § 154(i) (authorizing the Commission to "issue such orders, not inconsistent with this [Act], as may be necessary in the execution of its functions").

<sup>13</sup> 47 CFR § 0.111(h).

<sup>14</sup> *See* 47 U.S.C. §§ 218, 403, 409(e). The subpoena was issued pursuant to delegated authority. *See* 47 U.S.C. § 155(c)(1)-(3). The subpoena ordered New Century to appear before the Enforcement Bureau on July 8, 2015, to give sworn testimony concerning the matters described in the subpoena. As an alternative to appearing in person to provide testimony, New Century was given the option to answer the inquiries in writing and provide the requested documents. *See* Subpoena at 1.

<sup>15</sup> *See supra* paras. 2-4.

<sup>16</sup> *See* New Century FCC Form 499-Q at 1. *See also* New Century 2016 Form 499-A, filed March 1, 2016 (identifying Karyn L. Bartel as New Century's president and listing the 3050 Royal Blvd. South, Suite 175, Alpharetta, Georgia address).

<sup>17</sup> *See* New Century Annual CPNI Certification, 47 CFR § 64.2009(e), EB Docket No. 06-36, filed by the Compliance Group, Inc. on February 25, 2015, *available at* <http://apps.fcc.gov/ecfs/comment/view?id=60001020829>. The annual CPNI filing listed New Century's address as 3050 Royal Blvd. South, Suite 175, Alpharetta, Georgia 30022. New Century has not filed a 2016 Annual CPNI Certification for calendar year 2015.

the contact information for its designated agent for service of process violated Section 1.47(h) of the Rules.

#### IV. CONCLUSION

9. We have determined that New Century violated a Commission order to produce certain information and documents in connection with a Bureau investigation. New Century also violated Section 1.47(h) of the Rules by failing to notify the Commission of an address change for its designated agent for service. Although a monetary forfeiture is consistent with past precedent and warranted for these violations,<sup>18</sup> we instead admonish New Century and order the Company to report to the Bureau within thirty (30) calendar days why the Commission should not (1) determine that New Century lacks the qualifications to hold Commission authorizations, (2) initiate proceedings against New Century to revoke its Commission authorizations, or (3) issue an order declaring that the Company's authorizations have terminated.<sup>19</sup> Failure to report to the Bureau within the time specified will be deemed an admission of the facts outlined above.

#### V. ORDERING CLAUSES

10. Accordingly, **IT IS ORDERED** that New Century Telecom, Inc. **IS ADMONISHED** for 1) willfully violating a Commission order validly issued pursuant to delegated authority by the Enforcement Bureau in a subpoena served on New Century Telecom, Inc. in connection with an investigation into New Century Telecom, Inc.'s compliance with the Communications Act and Commission Rules; and 2) willfully violating Section 1.47(h) of the Commission's Rules.<sup>20</sup>

11. **IT IS FURTHER ORDERED** that, pursuant to Section 403 of the Act,<sup>21</sup> New Century Telecom, Inc. **SHALL RESPOND** to the request in paragraph 9 within thirty (30) calendar days from the release date of this Admonishment Order. Failure to respond to the request within thirty (30) calendar days will be deemed an admission of the facts outlined in this Admonishment Order.

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<sup>18</sup> See *Net One International, LLC*, Forfeiture Order, 29 FCC Rcd 264, 264-66, paras. 1-4 (EB 2014) (imposing \$25,000 penalty for failure to respond fully to a letter of inquiry (LOI)), *petition for reconsideration denied*, Memorandum Opinion and Order, 30 FCC Rcd 1021 (EB 2015); *1st Source Information Specialists, Inc., d/b/a Locatecell.com*, Notice of Apparent Liability for Forfeiture, 21 FCC Rcd 8193, 8196-97, para. 13 (2006), Forfeiture Order, 22 FCC Rcd 431 (2007) (imposing a forfeiture of \$97,500 for the company's failure to respond fully to an Enforcement Bureau subpoena) (*1st Source Forfeiture Order*); *BigZoo.com Corp.*, Forfeiture Order, 20 FCC Rcd 3954, 3954-55, paras. 1-4 (EB 2005) (imposing \$20,000 penalty for failure to respond to an LOI).

<sup>19</sup> See, e.g., *ACT Telecomms., Inc.; Termination of Int'l Section 214 Authorization*, Order, 31 FCC Rcd 188 (IB 2016) (declaring ACT's international 214 authorization to have terminated given ACT's inability to comply with the express condition for holding the authorization).

<sup>20</sup> 47 CFR § 1.47(h).

<sup>21</sup> 47 U.S.C. § 403.

12. **IT IS FURTHER ORDERED** that a copy of this Admonishment Order shall be sent by first class and certified mail, return receipt requested, to New Century Telecom, Inc., 3050 Royal Blvd. South, Suite 175, Alpharetta, Georgia 30022, and to The Compliance Group, Agent for Service of Process for New Century Telecom, Inc., 1420 Spring Hill Road, Suite 400, McLean, Virginia 22102, and by e-mail to [karenlbartel@gmail.com](mailto:karenlbartel@gmail.com). In addition, the Admonishment Order shall be posted in the Commission's Office of the Secretary.<sup>22</sup>

## FEDERAL COMMUNICATIONS COMMISSION

Richard A. Hindman  
Division Chief  
Telecommunications Consumers Division  
Enforcement Bureau

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<sup>22</sup> See 47 CFR § 1.47(h) ("If such carrier, interconnected VoIP provider, or non-interconnected VoIP provider fails to designate such an agent, service of any notice or other process in any proceeding before the Commission, or of any order, decision, or requirement of the Commission, may be made by posting such notice, process, order, requirement, or decision in the Office of the Secretary of the Commission.").