

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

In the Matter of)	
)	
Telplex Communications)	Complaint No. 3295023
)	
Complaint Regarding)	
Unauthorized Change of)	
Subscriber's Telecommunications Carrier)	

ORDER

Adopted: October 22, 2019

Released: October 22, 2019

By the Deputy Chief, Consumer Policy Division, Consumer and Governmental Affairs Bureau:

1. In this Order, we consider a complaint alleging that Telplex Communications (Telplex) changed Complainant's telecommunications service provider without obtaining authorization and verification from Complainant as required by the Commission's rules.¹ We find that Telplex's actions did not result in an unauthorized change in Complainant's telecommunications service provider, and we deny Complainant's complaint.

2. Section 258 of the Communications Act of 1934, as amended (the Act), prohibits 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.² The Commission's implementing rules require, among other things, that a carrier receive individual subscriber consent before a carrier change may occur.³ Specifically, a carrier must: (1) obtain the subscriber's written or electronically signed authorization in a format that satisfies our rules; (2) obtain confirmation from the subscriber via a toll-free number provided exclusively for the purpose of confirming orders electronically; or (3) utilize an appropriately qualified independent third party to verify the order.⁴ The Commission also has adopted rules to limit the liability of subscribers when a carrier change occurs, and to require carriers involved in slamming practices to compensate subscribers whose carriers were changed without authorization.⁵

¹ See Informal Complaint No. 3295023 (filed May 28, 2019); see also 47 CFR §§ 64.1100 – 64.1190.

² 47 U.S.C. § 258(a).

³ See 47 CFR § 64.1120.

⁴ See *id.* § 64.1120(c). Section 64.1130 details the requirements for letter of agency form and content for written or electronically signed authorizations. *Id.* § 64.1130.

⁵ These rules require the unauthorized 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. See *id.* §§ 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. *Id.* Where the subscriber has paid charges to the unauthorized carrier, the Commission's rules require that the unauthorized carrier pay 150 percent of those charges to the authorized carrier, and the authorized carrier shall refund or credit to the subscriber 50 percent of all charges paid by the subscriber to the unauthorized carrier. See *id.* §§ 64.1140, 64.1170.

3. We received Complainant's complaint alleging that Complainant's telecommunications service provider had been changed without Complainant's authorization.⁶ In the complaint, Complainant also alleges that Telplex's telemarketer claimed they "were part of AT&T" and that Complainant "was required to allow them to 'upgrade' [her] or else lose [her] AT&T service."⁷ Complainant further states that she complied "because I wanted the calls to stop and my AT&T service to remain uninterrupted." She also states that she did not realize her lines had been switched until she received a past-due bill from Telplex.⁸

4. Pursuant to our rules, we notified Telplex of the complaint.⁹ Telplex responded to the complaint, stating that authorization was received and confirmed through a letter of agency (LOA).¹⁰ Telplex provided a copy of the LOA. Telplex also asserted that Complainant was switched to a Voice over Internet Protocol (VoIP) service, "which is not subject to the Commission's slamming rules."¹¹ The Division confirmed with Complainant's local exchange carrier that Complainant's lines were ported to Telplex and converted to a VoIP service. To date, the Commission's carrier change rules have not been extended to VoIP service.¹² Thus, based on the evidence in the record, we conclude that Telplex's actions did not result in an "unauthorized change" in Complainant's telecommunications service provider, as defined in the rules.¹³

5. 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 and 1.719 of the Commission's rules, 47 CFR §§ 0.141, 0.361, 1.719, the complaint filed against Telplex Communications IS DENIED.

⁶ See Informal Complaint No. 3295023.

⁷ *Id.*

⁸ *Id.*

⁹ 47 CFR. § 1.719 (Commission procedure for informal complaints filed pursuant to section 258 of the Act); *id.* § 64.1150 (procedures for resolution of unauthorized changes in preferred carrier).

¹⁰ See Telplex Response to Informal Complaint No. 3295023 (filed July 3, 2019).

¹¹ *Id.*

¹² Section 64.1120 of our rules requires that any "telecommunications carrier" must adhere to authorization and verification procedures prescribed by the Commission when submitting and executing carrier changes. 47 CFR § 64.1120. We note that the Commission has sought comment on whether 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).

¹³ 47 CFR § 64.1100(e). If Complainant is unsatisfied with the resolution of its complaint, such Complainant may file a formal complaint with the Commission pursuant to section 1.721 of the Commission's rules, *id.* § 1.721. Such filing will be deemed to relate back to the filing date of such Complainant's informal complaint so long as the formal complaint is filed within 45 days from the date this order is mailed or delivered electronically to such Complainant. See *id.* § 1.719.

6. IT IS FURTHER ORDERED that this Order is effective upon release.

FEDERAL COMMUNICATIONS COMMISSION



Nancy Stevenson
Deputy Chief
Consumer Policy Division
Consumer & Governmental Affairs Bureau