

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

In the Matter of	)	
	)	
Tele Circuit Network Corporation	)	Complaint Nos. 1418012
	)	1506567
Complaints Regarding	)	1523876
Unauthorized Change of	)	1557038
Subscribers' Telecommunications Carrier	)	1557193
	)	1686612
	)	1714894
	)	1757133
	)	1997793/1845261
	)	2002243
	)	2037228
	)	2049963
	)	2051254
	)	2058169
	)	2071906
	)	2125218
	)	2129292
	)	2140282
	)	2175375
	)	2207685
	)	2223296
	)	2289012
	)	2412711
	)	2416415
	)	2522894
	)	2539119
	)	2542517
	)	2786639

**ORDER**

**Adopted: April 1, 2019**

**Released: April 2, 2019**

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

1. In this Order, we consider twenty-eight complaints<sup>1</sup> alleging that Tele Circuit Network Corporation (Tele Circuit) changed Complainants' telecommunications service providers without obtaining authorization and verification from Complainants in violation of the Commission's rules.<sup>2</sup> We conclude that Tele Circuit's actions violated the Commission's carrier change rules, and we therefore grant Complainants' complaints.

<sup>1</sup> See Appendix.

<sup>2</sup> See 47 CFR §§ 64.1100 – 64.1190.

2. Section 258 of the Communications Act of 1934 (the Act), as amended, 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.<sup>3</sup> The Commission’s implementing rules require, among other things, that a carrier receive individual subscriber consent before a carrier change may occur.<sup>4</sup> Specifically, a carrier must: (1) obtain the subscriber’s written or electronically signed authorization in a format that meets the requirements of Section 64.1130; (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 subscriber’s order.<sup>5</sup> 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.<sup>6</sup>

3. We received Complainants’ complaints alleging that Complainants’ telecommunications service providers had been changed without Complainants’ authorization.<sup>7</sup> Pursuant to Sections 1.719 and 64.1150 of our rules, we notified Tele Circuit of the complaints.<sup>8</sup> Tele Circuit has failed to respond to the complaints. The failure of Tele Circuit to respond or provide proof of verification is presumed to be clear and convincing evidence of violations.<sup>9</sup> Therefore, we find that Tele Circuit’s actions resulted in violations of our carrier change rules, and we discuss Tele Circuit’s liability below.<sup>10</sup> We also will forward a copy of the record of this proceeding to our Enforcement Bureau to determine what additional actions may be necessary.

4. Tele Circuit must remove all charges incurred for service provided to Complainants for the first thirty days after the alleged unauthorized change in accordance with the Commission’s liability rules.<sup>11</sup> We have determined that Complainants are entitled to absolution for the charges incurred during the first thirty days after the unauthorized change occurred and that neither the Complainants’ authorized

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<sup>3</sup> 47 U.S.C. § 258(a).

<sup>4</sup> See 47 CFR § 64.1120.

<sup>5</sup> 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.

<sup>6</sup> These rules require the 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.

<sup>7</sup> See Appendix.

<sup>8</sup> 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).

<sup>9</sup> See *id.* § 64.1150(d).

<sup>10</sup> If any 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

carrier nor Tele Circuit may pursue any collection against Complainants for those charges.<sup>12</sup> Any charges imposed by Tele Circuit on the Complainants for service provided after this 30-day period shall be paid by the Complainants to the authorized carrier at the rates the Complainants were paying the authorized carriers at the time of the unauthorized change of their telecommunications service provider.<sup>13</sup>

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 complaints against Tele Circuit Network Corporation ARE GRANTED.

6. IT IS FURTHER ORDERED that, pursuant to Section 64.1170(d) of the Commission's rules, 47 CFR § 64.1170(d), Complainants are entitled to absolution for the charges incurred during the first thirty days after the unauthorized change occurred and that Tele Circuit Network Corporation may not pursue any collection against Complainants for those charges.

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

FEDERAL COMMUNICATIONS COMMISSION

Nancy A. Stevenson  
Deputy Chief  
Consumer Policy Division  
Consumer and Governmental Affairs Bureau

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complaint is filed within 45 days from the date this order is mailed or delivered electronically to such Complainant.  
*See id.* § 1.719.

<sup>11</sup> *See id.* § 64.1160(b).

<sup>12</sup> *See id.* § 64.1160(d).

<sup>13</sup> *See id.* § 64.1140, 64.1160.

## APPENDIX

<u>COMPLAINT NUMBER</u>	<u>DATE OF COMPLAINT</u>	<u>DATE OF CARRIER SERVE</u>
1418012	January 26, 2017	August 7, 2017
1506567	March 15, 2017	March 16, 2017
1523876	March 24, 2017	November 27, 2017
1557038	April 10, 2017	April 18, 2017
1557193	April 10, 2017	April 25, 2017
1686612	June 6, 2017	August 10, 2017
1714894	June 20, 2017	August 10, 2017
1757133	July 5, 2017	August 11, 2017
1997793/1845261	August 11, 2017	October 20, 2017
2002243	October 24, 2017	February 1, 2018
2037228	November 9, 2017	January 30, 2018
2049963	January 23, 2018	January 23, 2018
2051254	November 16, 2017	January 22, 2018
2058169	November 20, 2017	November 21, 2017
2071906	November 27, 2017	December 1, 2017
2125218	December 20, 2017	December 22, 2017
2129292	December 22, 2017	December 22, 2017
2140282	January 2, 2018	January 22, 2018
2175375	January 17, 2018	January 18, 2018
2207685	February 1, 2018	February 15, 2018
2223296	February 8, 2018	February 15, 2018
2289012	March 8, 2018	April 20, 2018
2412711	April 28, 2018	April 30, 2018
2416415	May 1, 2018	May 4, 2018
2522894	May 25, 2018	May 29, 2018
2539119	June 2, 2018	August 16, 2018
2542517	June 4, 2018	June 8, 2018
2786639	September 20, 2018	September 27, 2018