

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

In the Matter of)
CenturyLink) Complaint Nos. 767598
Complaints Regarding) 1078300/1078404
Unauthorized Change of) 1079188
Subscribers' Telecommunications Carrier) 1967131
) 2049483
) 2067106
) 2441983
) 2840904
) 2939670

ORDER

Adopted: April 30, 2019

Released: May 1, 2019

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

1. In this Order, we consider nine complaints¹ alleging that CenturyLink changed Complainants' telecommunications service providers without obtaining authorization and verification from Complainants as required by the Commission's rules.² We conclude that CenturyLink's actions violated the Commission's carrier change rules, and we therefore grant Complainants' complaints.

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.³ The Commission's implementing rules require, among other things, that a carrier receive individual subscriber consent before a carrier change may occur.⁴ 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.⁵ 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.⁶

¹ See Appendix.

² See 47 CFR §§ 64.1100 – 64.1190.

³ 47 U.S.C. § 258(a).

⁴ See 47 CFR § 64.1120.

⁵ 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.

⁶ 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

(continued...)

3. We received Complainants' complaints alleging that Complainants' telecommunications service providers had been changed without Complainants' authorization.⁷ Pursuant to Sections 1.719 and 64.1150 of our rules, we notified CenturyLink of the complaints.⁸ CenturyLink responded to the complaints, acknowledging that it had charged Complainants for service. However, in each case CenturyLink failed to provide any proof of authorization, including a third-party verification (TPV) recording. The failure of CenturyLink to provide proof of verified authorization is presumed to be clear and convincing evidence of violations.⁹ Therefore, we find that CenturyLink's actions resulted in violations of our carrier change rules, and we discuss CenturyLink's liability below.¹⁰

4. CenturyLink 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.¹¹ 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 carriers nor CenturyLink may pursue any collection against Complainants for those charges.¹² Any charges imposed by CenturyLink on the Complainants for service provided after this 30-day period shall be paid by the Complainants to the authorized carriers at the rates the Complainants were paying the authorized carriers at the time of the unauthorized change of their telecommunications service providers.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 complaints against CenturyLink 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 changes occurred and that CenturyLink may not pursue any collection against Complainants for those charges.

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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.

⁷ *See* Appendix.

⁸ 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).

⁹ *See id.* § 64.1150(d).

¹⁰ 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 complaint is filed within 45 days from the date this order is mailed or delivered electronically to such Complainant. *See id.* § 1.719.

¹¹ *See id.* § 64.1160(b).

¹² *See id.* § 64.1160(d).

¹³ *See id.* §§ 64.1140, 64.1160.

7. 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

APPENDIX

<u>COMPLAINT NUMBER</u>	<u>DATE OF COMPLAINT</u>	<u>DATE OF CARRIER RESPONSE</u>
767598	January 22, 2016	March 10, 2016
1078300/1078404	July 11, 2016	August 19, 2016
1079188	July 11, 2016	August 11, 2016
1967131	October 6, 2017	November 3, 2017
2049483	November 15, 2017	February 7, 2018
2067106	November 24, 2017	February 13, 2018
2441983	May 10, 2018	May 23, 2018
2840904	October 12, 2018	October 25, 2018
2939670	November 26, 2018	December 6, 2018