

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

In the Matter of )
Clear Rate Communications, Inc. ) Complaint Nos. 407229
Complaints Regarding ) 1716515
Unauthorized Change of )
Subscribers' Telecommunications Carrier )

ORDER

Adopted: May 9, 2019

Released: May 9, 2019

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

1. In this Order, we consider two complaints<sup>1</sup> alleging that Clear Rate Communications, Inc. (Clear Rate) 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 Clear Rate has responded fully to the Complainants' complaints and has taken action to resolve the 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.<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>

<sup>1</sup> See Informal Complaint Nos. 407229 (filed July 16, 2015) and 1716515 (filed June 20, 2017).

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

<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

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3. We received Complainants' complaints alleging that Clear Rate changed Complainants' telecommunications service providers without Complainants' authorization. Pursuant to sections 1.719 and 64.1150 of our rules, we notified Clear Rate of the complaints.<sup>7</sup> Based on the information provided by Clear Rate, it appears that Clear Rate has fully absolved Complainants of all charges assessed by Clear Rate in a manner consistent with the Commission's liability rules.<sup>8</sup> We therefore find that the complaints referenced herein have been resolved.

4. 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 filed against Clear Rate Communications Inc., ARE RESOLVED.

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

FEDERAL COMMUNICATIONS COMMISSION



Nancy Stevenson  
Deputy Chief  
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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> *Id.* § 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>8</sup> *See* Clear Rate Responses to Informal Complaint Nos. 407229 (filed Aug. 6, 2015) and 1716515 (filed July 20, 2017). *See also* 47 CFR § 64.1160.