

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

In the Matter of)	
)	
Sprint Nextel Corporation)	Complaint No. 12-S3319553
)	
Complaint Regarding)	
Unauthorized Change of)	
Subscriber's Telecommunications Carrier)	

ORDER ON RECONSIDERATION

Adopted: June 3, 2019

Released: June 3, 2019

By the Deputy Chief, Consumer and Governmental Affairs Bureau:

I. INTRODUCTION AND BACKGROUND

1. In this Order on Reconsideration, we address a petition filed by Sprint Nextel Corporation (Sprint) asking us to reconsider a Consumer Policy Division (Division) order finding that Sprint changed a consumer's telecommunications service provider without proper authorization verified in accordance with the Commission's slamming rules.¹ On reconsideration, we grant Sprint's Petition and dismiss the complaint.²

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 and follow specific verification procedures 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 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.⁵ If the carrier uses an independent third party to verify the subscriber's consent, the rules require, among other things, that the verifier elicit confirmation that "the person on the [verification] call is authorized to make the carrier change."⁶

3. The Division received a complaint alleging that Complainant's telecommunications service provider had been switched to Sprint without authorization.⁷ Pursuant to our rules, the Division

¹ See Petition for Reconsideration of Sprint Corporation (filed Aug. 27, 2013) (Petition).

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 of the Commission's rules details the requirements for letter of agency form and content for written or electronically signed authorizations. *Id.* § 64.1130.

⁶ *Id.* § 64.1120(c)(3)(iii).

⁷ See Informal Complaint No. 12-S3319553 (filed Jan. 26, 2012).

notified Sprint of the complaint.⁸ The Division reviewed Sprint's response to the complaint as well as other evidence in the record and determined that Sprint's actions violated the Commission's slamming rules.⁹ Sprint seeks reconsideration of the *Division Order*.

II. DISCUSSION

4. Based on the record before us, we reverse the *Division Order* and grant Sprint's Petition. In its Petition, Sprint states that while it did bill Complainant for usage on its network, Sprint did not request a switch of Complainant's line to Sprint.¹⁰ Specifically, Sprint states that Complainant established a "direct dial account" with Sprint in 1993, which was later cancelled in 2010.¹¹ It appears, however, that Complainant's line "was never physically removed" by Complainant's local telephone company from Sprint's long distance network.¹² Thus, when a long distance call was placed from Complainant's telephone line years later, the call was routed and billed to Sprint's network by default. Information provided by Complainant's local service provider confirms that Sprint did not request a switch of Complainant's line to Sprint.¹³

5. Based on this information, we find that Sprint did not violate the Commission's slamming rules. We therefore grant Sprint's Petition.

III. ORDERING CLAUSES

6. Accordingly, IT IS ORDERED that, pursuant to section 258 of the Communications Act of 1934, as amended, 47 U.S.C. § 258, sections 1.106 and 1.719 of the Commission's rules, 47 CFR §§ 1.106, 1.719, and authority delegated by sections 0.141 and 0.361 of the Commission's rules, 47 CFR §§ 0.141, 0.361, the Petition for Reconsideration filed by Sprint Corporation, on August 27, 2013, IS GRANTED.

7. IT IS FURTHER ORDERED that this Order is EFFECTIVE UPON RELEASE.

FEDERAL COMMUNICATIONS COMMISSION

Mark A. Stone
Deputy Chief
Consumer and Governmental Affairs Bureau

⁸ See 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 *Sprint Nextel Corporation, Complaint Regarding Unauthorized Change of Subscriber's Telecommunications Carrier*, Order, 28 FCC Rcd 10953 (CGB 2013) (*Division Order*). The Division cited both Sprint's response and the response from Complainant's local exchange carrier, Verizon.

¹⁰ See Petition at 1-2.

¹¹ *Id.* at 2.

¹² *Id.*

¹³ See Letter from Shelley Robinette, Associate Director, Regulatory, Verizon, to Federal Communications Commission, Attn: Nancy Stevenson, Deputy Chief, Consumer Policy Division, Consumer and Governmental Affairs Bureau (May 7, 2013).