

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

In the Matter of	)	
	)	
City Communications, Inc.	)	Complaint No. 3786154
	)	
Complaint Regarding	)	
Unauthorized Change of	)	
Subscriber's Telecommunications Carrier	)	

**ORDER**

**Adopted: March 2, 2020**

**Released: March 3, 2020**

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

1. In this Order, we consider a complaint alleging that City Communications, Inc. changed Complainant's telecommunications service provider without obtaining authorization and verification from Complainant in violation of the Commission's rules.<sup>1</sup> We find that City Communications' actions violated the Commission's slamming rules, and we therefore grant 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.<sup>2</sup> The Commission's implementing rules require, among other things, that a carrier receive individual subscriber consent before a carrier change may occur.<sup>3</sup> 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.<sup>4</sup> The Commission has also adopted rules to limit the liability of subscribers when an unauthorized carrier change occurs, and to require carriers involved in slamming practices to compensate subscribers whose carriers were changed without authorization.<sup>5</sup>

<sup>1</sup> See Informal Complaint No. 3786154 (filed Jan. 29, 2020); see also 47 CFR §§ 64.1100 – 64.1190.

<sup>2</sup> 47 U.S.C. § 258(a).

<sup>3</sup> See 47 CFR § 64.1120.

<sup>4</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>5</sup> 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.<sup>6</sup> Pursuant to our rules, we notified City Communications of the complaint.<sup>7</sup> City Communications responded to the complaint, stating that it obtained authorization from Complainant through a third-party verification (TPV) recording.<sup>8</sup>

4. Our slamming rules require that all TPVs elicit at a minimum: the date of the verification; the identity of the subscriber; confirmation that the person on the call is authorized to make the carrier change; confirmation that the person on the call wants to make the carrier change; and confirmation that the person on the call understands that a carrier change is being authorized.<sup>9</sup> The verifier must also elicit the telephone numbers to be switched.<sup>10</sup>

5. In City Communications' TPV, the verifier does not confirm that the person on the call is authorized to make a carrier change. The verifier also fails to elicit the telephone number *to be switched* to a different carrier.<sup>11</sup> Instead, the verifier simply asks for the consumer's name, address, home telephone number and date of birth. The Commission has emphasized that third-party verifiers must convey explicitly that the consumer will have authorized a carrier change, and confirm that the consumer understands that a carrier change, not an upgrade to existing service, bill consolidation, or any other misleading description of the transaction, is being authorized.<sup>12</sup> We find that City Communications' TPV did not comply with our slamming rules, and we discuss City Communications' liability below.<sup>13</sup>

6. As outlined in the Commission's liability rules, Complainant is entitled to absolution for the charges incurred during the first 30 days after the unauthorized carrier change occurred, and neither the Complainant's authorized carrier nor City Communications may pursue any collection against Complainant for those charges.<sup>14</sup> Any charges imposed by City Communications on the subscriber for service provided after this 30-day period shall be paid by the subscriber at the rates the subscriber was paying to the authorized carrier at the time of the unauthorized change.<sup>15</sup>

7. 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 City Communications, Inc. IS GRANTED.

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<sup>6</sup> See Informal Complaint No. 3786154.

<sup>7</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>8</sup> See City Communications Response to Informal Complaint No. 3786154 (filed Feb. 25, 2020).

<sup>9</sup> 47 CFR § 64.1120(c)(3)(iii).

<sup>10</sup> *Id.*

<sup>11</sup> See *id.* (emphasis added).

<sup>12</sup> See *Implementation of the Subscriber Carrier Selection Changes Provisions of the Telecommunications Act of 1996; Policies and Rules Concerning Unauthorized Changes of Consumers' Long Distance Carriers*, Fourth Report and Order, 23 FCC Rcd 493, 501, para. 19 (2008); see also 47 CFR § 64.1120(c)(3)(iii).

<sup>13</sup> If Complainant is unsatisfied with the resolution of the complaint, the Complainant may file a formal complaint with the Commission pursuant to Section 1.721 of the Commission's rules, 47 CFR § 1.721. Such filing will be deemed to relate back to the filing date of 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 Complainant. See *id.* § 1.719.

<sup>14</sup> See *id.* § 64.1160(d).

<sup>15</sup> See *id.* §§ 64.1140, 64.1160.

8. IT IS FURTHER ORDERED that, pursuant to section 64.1170(d) of the Commission's rules, 47 CFR § 64.1170(d), the Complainant is entitled to absolution for the charges incurred during the first thirty days after the unauthorized change occurred and City Communications, Inc. may not pursue any collection against Complainant for those charges.

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

FEDERAL COMMUNICATIONS COMMISSION

Kurt A. Schroeder  
Chief  
Consumer Policy Division  
Consumer and Governmental Affairs Bureau