

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

In the Matter of)
Clear Rate Communications) Complaint No. 5433616
Complaint Regarding)
Unauthorized Change of)
Subscriber's Telecommunications Carrier)

ORDER

Adopted: April 26, 2022

Released: April 28, 2022

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

1. In this Order, we consider a complaint alleging that Clear Rate Communications (Clear Rate) changed Complainant's telecommunications service provider without obtaining authorization and verification from Complainant as required by the Commission's rules.1 We find that Clear Rate has responded to the Complainant's complaint and has taken action to resolve the 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.2 The Commission's implementing rules require, among other things, that a carrier receive individual subscriber consent before a carrier change may occur.3 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.4 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.5

1 See Informal Complaint No. 5433616 (filed Apr. 20, 2022); see also 47 CFR §§ 64.1100 – 64.1190.

2 47 U.S.C. § 258(a).

3 See 47 CFR § 64.1120.

4 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.

5 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 Clear Rate had changed Complainant's telecommunications service provider without Complainant's authorization.⁶ In the complaint, Complainant stated that Clear Rate contacted his mother by telephone "to see about switching phone and internet over to their company."⁷ Complainant further stated that his mother explained to the representative on the phone that she would need to speak with Complainant as the account was under his name. "I then called my mother's current phone/internet provider (Century Link) only to find out that Clear Rate Communications had shut off the phone and internet and switched it over to their services."⁸

4. Pursuant to our rules, we notified Clear Rate of the complaint.⁹ With its response, Clear Rate provided a third party verification recording but not a recording of the sales call.¹⁰ In addition, Clear Rate stated that all charges would be waived, the account "fully closed," and no early termination fee would be assessed.¹¹ Based on the information provided by Clear Rate, it appears that Clear Rate has absolved Complainant of all charges assessed by Clear Rate in a manner consistent with the Commission's liability rules. We therefore find that the complaint referenced herein has been resolved.¹²

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 complaint filed against Clear Rate Communications IS RESOLVED.

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

FEDERAL COMMUNICATIONS COMMISSION

Kristi Thornton
Acting Chief
Consumer Policy Division
Consumer and Governmental Affairs Bureau

⁶ Informal Complaint No. 5433616.

⁷ *Id.*

⁸ *Id.*

⁹ 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).

¹⁰ *See* Clear Rate Response to Informal Complaint No. 5433616 (filed Apr. 22, 2022).

¹¹ *Id.* Complainant also confirmed on Apr. 26, 2022, via telephone conversation with Division staff that Clear Rate had cancelled all charges on the account.

¹² If Complainant is unsatisfied with the resolution of its 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 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.