Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of	)	
	)	File No. EB-00-TC-006
AT&T Communications, Inc.	)	
	)	NAL/Acct. No. 200132170015
Apparent Liability for Forfeiture	)	

ORDER OF FORFEITURE

Adopted: April 12, 2001; Released: April 17, 2001

By the Commission: Commissioner Furchtgott-Roth concurring in part, dissenting in part, and issuing a statement.

I. INTRODUCTION

1. In this Order, we assess a forfeiture of $520,000 against AT&T Communications, Inc. ("AT&T") for willful or repeated violations of the Communications Act of 1934, as amended (the "Act"),[1] and our rules and orders.[2] For the reasons set forth below, we find that AT&T willfully or repeatedly violated section 258 of the Act and the Commission's rules and orders by changing the preferred carriers for 11 telephone lines without the consumers' authorization, a practice commonly referred to as "slamming."

II. BACKGROUND

2. The facts and circumstances leading to the issuance of our December 21, 2000 Notice of Apparent Liability ("NAL") are fully recited in the NAL and need not be reiterated at

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[1] Section 258 states in pertinent part that "no telecommunications carrier shall submit . . . a change in a subscriber's selection of a provider of telephone exchange service or telephone toll service except in accordance with such verification procedures as the Commission shall prescribe." 47 U.S.C. § 258.

[2] 47 C.F.R. §§ 64.1100, 64.1150. Sections 64.1100 and 64.1150 are now codified at section 64.1120. 65 FR 47678, 47690 (2000). Because the apparent violations occurred prior to November 28, 2000, the effective date of the revised rules, sections 64.1100 and 64.1150 were the applicable Commission rules in effect during the relevant time period. S*ee also Implementation of the Subscriber Carrier Selection Changes Provisions of the Telecommunications Act of 1996 and Policies and Rules Concerning Unauthorized Changes of Consumers' Long Distance Carriers*, Second Report and Order and Further Notice of Proposed Rulemaking, 14 FCC Rcd 1508 (1998) (*Section 258 Order*), *stayed in nonrelevant part, MCI WorldCom v. FCC*, No. 99-1125 (D.C. Cir. May 18, 1999), *stay dissolved, MCI WorldCom v. FCC*, No. 99-1125 (D.C. Cir. June 27, 2000); Further Notice of Proposed Rulemaking and Memorandum Opinion and Order on Reconsideration, 12 FCC Rcd 10674 (1997).

length.[3] During the course of the year 2000, the Commission received over 1,000 consumer complaints alleging slamming by AT&T.[4] The Commission sent Letters of Inquiry to AT&T requesting additional information for approximately 70 of these complaints. This proceeding is based on 12 of those consumer complaints, involving 14 telephone lines. Each complainant asserted that AT&T had converted his or her designated preferred carrier without authorization. Each of these 12 complainants provided sworn statements and evidence in support of his or her complaint.

3. Following an investigation of the above complaints, which included an opportunity for AT&T to respond to the allegations raised by complainants, the Commission issued the *AT&T NAL*. There we found that AT&T had apparently failed to obtain the complainants' authorization before submitting preferred carrier change requests, in violation of section 258 of the Act and the Commission's rules and orders against slamming. Further, we found that AT&T was apparently liable for a proposed forfeiture of $40,000 for each of 12 violations and $80,000 for each of two violations, resulting in a total proposed forfeiture amount of $640,000.[5]

III. DISCUSSION

4. In its response to the NAL, AT&T does not deny that it submitted preferred carrier change orders to the complainants' local exchange carriers; however, AT&T contests the Commission's finding of apparent liability and proposal of a forfeiture penalty. We take up AT&T's arguments in turn.

A. Undisputed Conversions

5. Regarding six of the apparent slamming violations, AT&T acknowledges that the lines were changed to AT&T without the consumers' authorization due to "processing" or "data entry" errors.[6] AT&T argues that the proposed forfeiture amounts associated with these

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[3] *AT&T Communications, Inc.*, Notice of Apparent Liability for Forfeiture, 16 FCC Rcd 438 (2000) (*AT&T NAL*).

[4] Contrary to AT&T's response we don't believe it is inappropriate to reference the number of complaints received by the Commission as background information. *AT&T Opposition* filed Jan. 22, 2001 at 27 (Response).

[5] *AT&T NAL*, 16 FCC Rcd at 438. The Commission has authority pursuant to section 503(b) of the Act to assess a forfeiture penalty against a common carrier if the Commission determines that the carrier has "willfully or repeatedly" failed to comply with the provisions of the Act or with any rule, regulation, or order issued by the Commission. 47 U.S.C. § 503(b). *See Commission's Forfeiture Policy Statement and Amendment of Section 1.80 of the Rules to Incorporate the Forfeiture Guidelines*, Report and Order, 12 FCC Rcd 17087, 17097 (1997) (*Forfeiture Policy Statement*).

[6] Response at 20-21. The six complaints at issue here are Complaint dated April 12, 2000, from Phyllis Crawford; Complaint dated May 15, 2000, from David S. Scott; Complaint dated March 15, 2000 from Bernhard L. Hanavan; Complaint dated August 10, 2000, from Esta Schuerholz; Complaint dated September 5, 2000, from Steven R. Rosenberg; and Complaint dated October 18, 2000, from David Dinerman.

complaints should be rescinded or significantly reduced. As a basis for this argument, AT&T states that it did not intend to slam any of these lines and that the NAL does not make any finding, or cite any evidence, that AT&T was negligent in attempting to comply with the Commission's carrier selection rules. But, neither the Act nor our rules require evidence of specific intent or negligence to support the finding of a violation. Section 258 and our rules impose liability for any unauthorized change in a subscriber's preferred carrier, whether intentional or inadvertent.[7]

6. AT&T argues that the imposition of a large forfeiture when there has been no finding of fault "cannot provide any incentive to a carrier to conform to the Commission's carrier selection rules."[8] This argument is unpersuasive. As we said in the *Section 258 Order*, holding carriers liable for both inadvertent and intentional unauthorized changes to subscribers' preferred carriers will reduce the overall incidence of slamming and is consistent with section 258.[9] We fail to see how finding a violation, without an assessment of a meaningful penalty, would accomplish that objective.[10] Furthermore, the Commission has expressed concern that forfeiture penalties in general be sufficiently high so as not to be considered an "affordable cost of doing business."[11] We therefore conclude that the base forfeiture amount of $40,000 per violation is appropriate for each of these six violations.

7. AT&T also argues that the imposition of a large forfeiture is unwarranted under the Commission's announced policies and rules.[12] Specifically, AT&T contends that in proposing the base forfeiture amount of $40,000 per violation, the Commission did not take into account as a mitigating factor the company's history of overall compliance with the Commission's slamming rules.[13] In support of this argument, AT&T contends that it has "led the industry in preserving and enhancing the integrity of the presubscription process."[14] AT&T points to the fact that it petitioned the Commission to initiate the rule making that ultimately extended third party verification of carrier changes obtained through telemarketing to the entire industry. AT&T also states that in 1998 it created an internal "Slamming Resolution Center" to handle consumer slamming complaints. We are not convinced that these actions demonstrate a history of overall

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7 *Section 258 Order*, 14 FCC Rcd at 1539.

8 Response at 22.

9 *Section 258 Order*, 14 FCC Rcd at 1540.

10 Our determination that assessing a forfeiture penalty is likely to have a greater deterrent effect than not assessing one is consistent with the legislative history of section 503(b). The legislative history demonstrates Congress's concern that the Commission would have authority to " impose forfeitures sufficiently high to deter violations and constitute a meaningful sanction when violations occur." *Forfeiture Policy* Statement, 12 FCC Rcd at 17089.

11 *Id.* at 17099-100.

12 Response at 22.

13 47 CFR § 1.80(b)(4) Section II.

14 Response at 3.

compliance with the slamming rules justifying a reduction in the proposed forfeiture amount. AT&T's actions may demonstrate the company's commitment to complying with the Act, but do not prove the company's success in doing so. We note that AT&T's substantial market share provided the company ample incentive to support implementation of the Commission's strong verification standards. Likewise, the creation of a "Slamming Resolution Center" may well demonstrate AT&T's commitment to assist consumers that have made slamming allegations; it does not prove anything regarding the actual incidence of slamming.

8. AT&T also cites to statistical analyses of consumer slamming complaints filed with the Commission that, according to AT&T, demonstrate its slamming compliance.[15] For example, the 1997 Scorecard shows that AT&T received the highest number of consumer slamming complaints for the 1996 calendar year, 1,866, but that its slamming "complaint ratio" was the lowest for the seven carriers[16] served with more than 100 slamming complaints during that year.[17] We are not persuaded to reduce the forfeiture amount based on these statistics. AT&T has provided statistics primarily regarding slamming complaints it received from the Commission for calendar years 1995 through June 1999[18]. But, neither the raw number of slamming complaints served by the Commission, nor AT&T's "complaint ratio," demonstrate AT&T's actual compliance with the Act. Just as we would not increase the amount of a forfeiture based solely on the fact that a large number of complaints had been lodged against the carrier, so we decline to reduce a proposed forfeiture based solely on the fact that a carrier may have had relatively few complaints lodged against it as compared to its revenues. We therefore find that AT&T has failed to demonstrate a history of compliance warranting a reduction of the proposed forfeiture amount.

9. Finally, AT&T suggests that based on its longstanding cooperation with the Commission in addressing slamming complaints, the allegations made in the NAL could have been resolved with the Commission without the issuance of a NAL. According to AT&T, "[i]f the

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[15] Response at 4, *citing* "Common Carrier Scorecard, Fall 1996," Industry Analysis Division, Common Carrier Bureau; "Common Carrier Scorecard, December 1997," Industry Analysis Division, Common Carrier Bureau (1997 Scorecard); "Common Carrier Scorecard, November, 1998," Enforcement and Industry Analysis Divisions, Common Carrier Bureau; "The FCC Telephone Consumer Complaint Scorecard," Common Carrier Bureau, December 1998; "Trends In Telephone Service, March 2000," Industry Analysis Division.

[16] The report separated carriers from resellers based on the companies' self-identification as submitted on the Telecommunications Relay Service Fund Worksheet. 1997 Scorecard at 32.

[17] *Id.* The complaint ratio is a measure of the overall number of complaints directed against a carrier adjusted by the carrier's revenues. Thus, the ratio permits rough comparison of the number of slamming complaints as between large and small carriers.

[18] We note that, as part of a consent decree arising out of an earlier Notice of Apparent Liability, the Common Carrier Bureau agreed not to initiate on its own motion forfeiture proceedings for any informal consumer slamming complaints prior to August 1, 1996. *American Telephone and Telegraph Corporation*, Order and Consent Decree, 11 FCC Rcd 17312, 17318 (Com. Car. Bur. 1996).

Commission had discussed with AT&T the specific claims that form the basis for the NAL, those disputes could readily have been resolved, either by provision of the additional information discussed in this submission or an appropriate negotiated outcome."[19] AT&T seemingly misunderstands the procedure contemplated under section 503(b) of the Act. Section 503(b) provides that a carrier will be given an opportunity to address the allegations in the NAL by filing a response to the NAL.[20] It does not require that the carrier be given an opportunity to address those allegations prior to issuance of the NAL. Even so, before issuing the NAL, Commission staff requested further information from AT&T regarding approximately 70 slamming complaints, including the 12 at issue here. AT&T therefore had every opportunity to propose a "negotiated outcome" of this matter prior to issuance of the NAL if it determined it was in its interest to do so .[21]

B. LOA Complaint

10. With respect to the complaint filed by Ms. Palacio, AT&T argues that a finding of liability is unsupported by the facts surrounding the allegations.[22] According to AT&T, at the time AT&T processed the change of Ms. Palacio's lines, AT&T did not know or have reason to know that the signature on the LOA was not authentic.[23] As stated above, section 258 and our rules impose liability whether a slam is intentional or not. Furthermore, section 503(b) of the Act gives the Commission authority to assess a forfeiture penalty against a common carrier if the Commission determines that the carrier has "willfully or repeatedly" failed to comply with the provisions of the Act or with any rule, regulation or order issued by the Commission.[24] For a violation to be willful under section 503(b), it need not be intentional.[25] AT&T therefore cannot escape liability for switching Ms. Palacio's two lines, even if it did not have actual or constructive notice that the signature on the LOA was not authentic.

11. In addition, AT&T maintains that it had taken reasonable steps to maintain the integrity of such carrier changes. Specifically, AT&T asserts that its marketing agent voluntarily

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19 Response at 23-24.

20 47 U.S.C. § 503(b)(4).

21 The Commission is not obligated to disclose any facts it uncovers during the course of an investigation prior to issuance of a NAL.

22 Response at 8-12.

23 *Id*. at 10.

24 47 U.S.C. § 503(b)(1)(B).

25 *Southern California Broadcasting Co.*, 6 FCC Rcd 4387 (1991). AT&T appears to argue that the Commission based its finding of liability for Ms. Palacio's preferred-carrier changes upon a determination that AT&T was aware that the LOA signature might have been forged. Response at 9-10. The NAL states, however, that AT&T's response to Ms Palacio's complaint did not dispute her allegation of forgery. *AT&T NAL*, 16 FCC Rcd at 445. Based on our discussion of Section 258's strict liability standard, it was not necessary to make such a determination of intent.

implemented a policy of terminating employees found to have engaged in slamming prior to processing the Palacio switch. Therefore, according to AT&T, the facts surrounding the unauthorized conversations do not support a finding of liability.[26] Although we applaud the efforts of AT&T and all carriers that implement procedures to combat slamming, the mere practice of terminating employees found to have engaged in slamming does not negate liability should slams nonetheless occur.[27] Hence, we find AT&T liable for the unauthorized conversion of Ms. Palacio's two lines.

12. We further find that a forfeiture penalty of $80,000 apiece for the unauthorized conversion of Ms. Palacio's two lines is appropriate. The Commission has consistently issued forfeitures at $80,000 per violation for the use of forged LOAs.[28] In these orders, the Commission found that the higher forfeiture amount was warranted by the egregious nature of the misconduct.[29] AT&T has provided us with no reason to change our practice in this situation. To the extent that AT&T argues that the Commission has granted substantial forfeiture reductions after finding "particularly egregious conduct," the consent decree cited is not relevant to our determination in this case.[30] Under the terms of the consent decree, the Commission made no finding of liability.[31] Accordingly, the Commission did not assess a forfeiture penalty for the alleged violations discussed in its NAL.

C. Third Party Verification Complaints

13. With respect to these remaining preferred carrier changes,[32] AT&T maintains that it should not be found liable because AT&T asserts it verified each of these carrier changes in accordance with Commission rules. As a preliminary matter, we note that a change that has not been properly authorized in the first instance, cannot be "properly verified."[33] Moreover, our rules relating to third-party verification require that "an appropriately qualified independent third

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26 Response at 11-12.

27 *See Coleman Enterprises, Inc.*, Order of Forfeiture, 15 FCC Rcd 24385, 24388 (2000).

28 *Brittan Communications International Corp.*, Order of Forfeiture 15 FCC Rcd 4852 (2000) (*Brittan Forfeiture Order*); *Amer-I-Net Services Corp.*, Order of Forfeiture, 15 FCC Rcd 3118 (2000) (*Amer-I-Net Forfeiture Order*); *All American Telephone Company, Inc.*, Notice of Apparent Liability for Forfeiture, 13 FCC Rcd 15040 (1998) (*All American NAL*).

29 *See, e.g. Brittan Forfeiture Order*, 15 FCC Rcd at 4855.

30 Response at 23, n.38 *citing Qwest Communications International, Inc.*, Order and Consent Decree, 15 FCC Rcd 14699 (2000) (*Qwest Consent*).

31 *Qwest Consent*, 15 FCC Rcd at 14705.

32 Complaint dated August 29, 2000, from Tracie Ortega; Declaration of Thomas H. Patterson dated June 6, 2000; Complaint dated April 10, 2000, from Theresa M. Plunkett (Plunkett Complaint); Complaint dated July 27, 2000, from Mari Krumwiede (Krumwiede Complaint); and Complaint dated June 21, 2000, from Robert Agnew.

33 47 CFR 64.1150.

party has obtained the subscriber's oral authorization to submit the preferred carrier change order that confirms and includes appropriate verification data. . . . The content of the verification must include clear and conspicuous confirmation that the subscriber has authorized a preferred carrier change."[34]

14. In support of its claim that it properly verified Ms. Plunkett's order for local service, AT&T provided a document with a table showing the word "pass" and "2/8/00 08:49PM" next to each of the following "TPV Type" categories: "local," "intraLATA," and "interLATA."[35] In the NAL, the Commission found AT&T was apparently liable for slamming Ms. Plunkett's service because the table did not provide sufficient evidence of "clear and conspicuous confirmation" that Ms. Plunkett authorized a change of her local service. To counter the Commission's finding, AT&T provides a declaration from its third party verifier attesting that "the term 'pass' [during a verification] in fact indicates that the customer separately affirmed her selection of AT&T for each of the services shown there."[36] We are not persuaded that AT&T received Ms. Plunkett's authorization to switch her local service or, therefore, that AT&T's third-party verifier properly obtained Ms. Plunkett's oral verification of such authorization. Ms. Plunkett states in her complaint that AT&T was already her preferred long distance provider.[37] Southwestern Bell Telephone (SBC), Ms. Plunkett's LEC, verified that AT&T had been her long distance provider since October 1999, and provided evidence that on March 24, 2000, it received a mechanized order from AT&T to change only Ms. Plunkett's local service.[38] The term "pass" on a document next to three different AT&T service offerings that were allegedly ordered on February 8, 2000, fails to provide evidence of a "clear and conspicuous confirmation" that Ms. Plunkett authorized the change to her local service provider that occurred on March 24, 2000. We therefore find AT&T liable for the unauthorized conversion of Ms. Plunkett's line.

15. AT&T also states that the line on the document, "Unique TPV ID: 1016," is identifying information (Ms. Plunkett's birthdate) proving that its verifier properly obtained Ms. Plunkett's verification.[39] The issue here is not whether a verifier spoke with Ms. Plunkett, but whether Ms. Plunkett authorized a change to her local service. AT&T asserts that its third party verifier verified authorization of three different AT&T services during a conversation with Ms. Plunkett on February 8, 2000. Ms. Plunkett contends that she did not give AT&T authorization

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34 47 C.F.R. § 64.1150(d).

35 *AT&T NAL*, 16 FCC Rcd at para 24.

36 Response, Exhibit D2 at 2.

37 *AT&T NAL*, 16 FCC Rcd at 447. Ms. Plunkett's local exchange carrier also verified that AT&T was Ms. Plunkett's preferred long distance provider. The evidence provided by AT&T also uses the term "pass" in relationship to Ms. Plunkett's long distance service.

38 Response to Plunkett Complaint from Southwestern Bell Telephone Company, dated May 30, 2000.. This report does not distinguish between intrastate and interstate long distance. It simply states that AT&T was Ms. Plunkett's long distance provider.

39 Response at n. 25.

to switch her local service provider. We find that the identifying information provided by AT&T does not rebut that allegation.

16. As to the Krumweide complaint, upon closer examination of the record it appears Ms. Krumweide may have authorized AT&T to change her preferred interstate and intrastate long distance provider. Ms. Krumweide states in her complaint that she was "slammed" and did not authorize a preferred carrier change. A handwritten note attached to her complaint implies that Ms. Krumweide believed she was slammed because she requested, but did not receive, AT&T's "One Rate Five Cent Plan."[40] Rather, the evidence suggests that because her LEC is a small independent telephone company, Nemont Telephone Cooperative, Inc., the requested plan was not available and Ms. Krumweide was charged a higher rate.[41] Based on this conflicting evidence, we accordingly do not find AT&T liable for the unauthorized conversion of Ms. Krumweide's line and will reduce the proposed forfeiture amount by $40,000.

17. AT&T maintains that it received authority to change Mr. Agnew's service for two lines during a telemarketing call to his business on April 5, 2000.[42] Prior to issuance of the NAL, AT&T failed to submit evidence to support its assertion that it received authorization and properly verified the purported change request. In response to the NAL, however, AT&T submits a declaration from a third party verifier along with an audio recording of what it represents to be verification of the change request by Mr. Agnew. The tape demonstrates that the third party verifier asked Mr. Agnew "[d]o you understand that you're authorizing AT&T to switch the long distance service to AT&T?" Mr. Agnew answers this question in the affirmative. The tape, therefore, persuades us that Mr. Agnew authorized or confirmed the change and we accordingly will reduce the proposed forfeiture amount by $40,000 for each of his two lines for a total reduction of $80,000.

18. AT&T maintains that a finding of liability with respect to the Ortega and Patterson complaints would be misplaced. AT&T acknowledges that "confirmation of the carrier changes was obtained by AT&T's verification agent from an individual other than the complaining consumer." AT&T does not contest that the persons from whom they received "verification" were not, in fact, authorized to confirm those carrier changes. AT&T goes on to state that such "actual" authority is irrelevant to a determination of whether AT&T slammed these consumers. We disagree. A carrier cannot comply with the Commission's verification procedures if it receives confirmation from an individual not authorized to make the change.[43] We therefore find AT&T liable for the unauthorized conversion of the Ortega and Patterson complaints.

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40 Krumwiede Complaint.

41 Response to Krumwiede Complaint from Nemont Telephone Cooperative, Inc. dated Oct. 20, 2000.

42 Response at 15-16.

43 *See Brittan Communications International, Inc*., Notice of Apparent Liability for Forfeiture, 14 FCC Rcd 296-97(1998). There is no evidence in the record indicating that the persons who allegedly confirmed these changes misrepresented their identities to AT&T's third party verifier, or that they were even known by the complainants.

IV. CONCLUSION

19. After reviewing the information filed by AT&T in its Response, we find that AT&T has failed to identify facts or circumstances to persuade us that there is any basis for reconsidering the *AT&T NAL*, except with regard to the Krumweide and Agnew complaints as discussed above. Further, AT&T has not shown any mitigating circumstances sufficient to warrant a reduction of the forfeiture penalty for the remaining 11 violations.

V. ORDERING CLAUSES

20. Accordingly, IT IS ORDERED pursuant to Section 503(b) of the Act, 47 U.S.C. § 503(b), and Section 1.80(f)(4) of the Commission's rules, 47 C.F.R. § 1.80(f)(4), that AT&T Communications, Inc. SHALL FORFEIT to the United States Government the sum of five hundred twenty thousand dollars ($520,000) for violating Sections 258 of the Act, 47 U.S.C. § 258, as well as the Commission's rules and orders governing preferred carrier conversions.[44]

21. IT IS FURTHER ORDERED that a copy of this Order of Forfeiture shall be sent by certified United States mail to AT&T Communications, Inc., 295 North Maple Avenue, Basking Ridge, New Jersey, 07920.

FEDERAL COMMUNICATIONS COMMISSION

Magalie Roman Salas
Secretary

STATEMENT OF COMMISSIONER HAROLD FURCHTGOTT-ROTH, CONCURRING IN PART, DISSENTING IN PART

[44] The forfeiture amount should be paid by check or money order drawn to the order of the Federal Communications Commission. AT&T should include the reference "NAL/Acct. No. 200132170015" on AT&T Communications, Inc.'s check or money order. Such remittance must be mailed to Forfeiture Collection Section, Finance Branch, Federal Communications Commission, P.O. Box. 73482, Chicago, Illinois 60673-7482. Requests for full payment under an installment plan should be sent to: Chief, Credit and Debt Management Center, 445 12th Street, S.W., Washington, D.C. 20554. *See* 47 C.F.R. § 1.1914.

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I support vigorous enforcement of the statutory prohibition against slamming and agree with the Commission's finding of liability here. However, with respect to six of the violations at issue – the so-called "undisputed conversions" – I dissent from the Commission's determination of the amount of forfeiture. As AT&T explains (and no one disputes), these violations were caused wholly by processing or data entry errors. In other words, AT&T in no way intended to slam these customers, had procedures in place to prevent slamming, but erroneously changed these customers' preferred carriers. In such circumstances, assessing the standard forfeiture amount is inappropriate.

While I do not, at present, challenge the strict liability standard imposed by the Commission for slamming, it is essential that the use of such a standard be accompanied by considerable discretion. Companies like AT&T process millions of change orders each year, and it is impossible to eliminate all mistakes. As the Commission acknowledged in announcing its strict liability standard, "even with the greatest care, innocent mistakes will occur and may result in unauthorized changes." *Implementation of the Subscriber Carrier Selection Changes Provisions of the Telecommunications Act of 1996*, Second Report and Order and Further Notice of Proposed Rulemaking, 14 FCC Rcd 1508 (1998) [¶52]. The Commission thus stated that, in exercising its forfeiture authority, it would "take into consideration in any enforcement action the willfulness of the carriers involved." *Id.* Accordingly, the Commission's rules explicitly require it to consider the "degree of culpability" in determining the amount of forfeiture penalty. 47 C.F.R. § 1.80(b)(4).

The Commission has failed to follow these rules here. In terms of culpability, AT&T's unintentional violations of the slamming rules pale in comparison to most of those that we have previously penalized. The record shows that AT&T has in place a comprehensive system to prevent slamming, which, although not perfect, is among the best in the industry. In these circumstances, the penalty for slamming should be significantly reduced. At the very least, the Commission should have given these mitigating factors substantial consideration in making its decision.