

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

In the Matter of	)	
	)	
Sprint Communications Company	)	IC No. 04-IO101831S
	)	
Complaint Regarding	)	
Unauthorized Change of	)	
Subscriber's Telecommunications Carrier	)	

**ORDER ON RECONSIDERATION**

**Adopted: March 27, 2007**

**Released: March 28, 2007**

By the Chief, Consumer & Governmental Affairs Bureau:

1. In this Order, we dismiss a Petition for Reconsideration filed by Frontier, a Citizens Communications Company (Frontier) asking us to reverse a finding that Sprint Communications Company (Sprint) did not change Complainant's telecommunications service provider without obtaining proper authorization and verification.<sup>1</sup> On reconsideration, we dismiss the *Petition* on procedural grounds.<sup>2</sup>

**I. BACKGROUND**

2. In December 1998, the Commission adopted rules prohibiting 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 rules were designed to take the profit out of slamming.<sup>4</sup> The Commission applied the rules to all wireline carriers,<sup>5</sup> and modified its existing requirements for the authorization and verification of preferred carrier changes.<sup>6</sup>

3. The rules require that a submitting carrier receive individual subscriber consent before a

---

<sup>1</sup> See Petition for Reconsideration of Frontier, A Citizens Communications Company (filed March 24, 2005) (*Petition*) seeking reconsideration of *Sprint Communications Company*, 19 FCC Rcd 23484 (2004) (*Division Order*), issued by the Consumer Policy Division (Division), Consumer & Governmental Affairs Bureau (CGB). After release of the *Division Order*, Sprint merged with Nextel Communications. Sprint Nextel will be referred to as Sprint.

<sup>2</sup> See 47 C.F.R. § 1.106(f).

<sup>3</sup> See *id.*; see also 47 U.S.C. § 258(a).

<sup>4</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*, CC Docket No. 94-129, Second Report and Order and Further Notice of Proposed Rulemaking, 14 FCC Rcd 1508, 1512, para. 4 (1998) (*Section 258 Order*). See also *id.* at 1518-19, para. 13.

<sup>5</sup> See *id.* at 1560, para. 85. CMRS providers were exempted from the verification requirements. See *id.*

<sup>6</sup> See *id.* at 1549, para. 66.

carrier change may occur.<sup>7</sup> Specifically, a carrier must: (1) obtain the subscriber's written or electronically signed authorization; (2) obtain confirmation from the subscriber via a toll-free number provided exclusively for the purpose of confirming orders electronically; or (3) utilize an independent third party to verify the subscriber's order.<sup>8</sup>

4. The Commission also adopted liability rules for carriers that engage in slamming.<sup>9</sup> 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.<sup>10</sup> Where the subscriber has paid charges to the unauthorized carrier, the unauthorized carrier must pay 150% of those charges to the authorized carrier, and the authorized carrier shall refund or credit to the subscriber 50% of all charges paid by the subscriber to the unauthorized carrier.<sup>11</sup>

5. The Commission received a complaint on February 17, 2004, alleging that Complainant's telecommunications service provider had been changed without Complainant's authorization.<sup>12</sup> Pursuant to Sections 1.719 and 64.1150 of the Commission's rules,<sup>13</sup> the Division notified Sprint of the complaint.<sup>14</sup> In response, Sprint stated that, based on information it received from Frontier, Complainant's local exchange carrier (LEC), Sprint switched Complainant's telephone service.<sup>15</sup> The Division found that Sprint did not violate the Commission's carrier change rules.<sup>16</sup> Frontier seeks reconsideration of the *Division Order*. The Division notified Sprint of the *Petition*,<sup>17</sup> and Sprint responded.<sup>18</sup>

---

<sup>7</sup> See 47 C.F.R. § 64.1120; see also 47 U.S.C. § 258(a) (barring carriers from changing a customer's preferred local or long distance carrier without first complying with one of the Commission's verification procedures).

<sup>8</sup> See 47 C.F.R. § 64.1120(c). Section 64.1130 details the requirements for letter of agency form and content for written or electronically signed authorizations. 47 C.F.R. § 64.1130.

<sup>9</sup> See 47 C.F.R. §§ 64.1140, 64.1160-70.

<sup>10</sup> See 47 C.F.R. §§ 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).

<sup>11</sup> See 47 C.F.R. §§ 64.1140, 64.1170.

<sup>12</sup> Informal Complaint No. IC 04-IO101831S, filed February 17, 2004.

<sup>13</sup> 47 C.F.R. § 1.719 (Commission procedure for informal complaints filed pursuant to Section 258 of the Act); 47 C.F.R. § 64.1150 (procedures for resolution of unauthorized changes in preferred carrier).

<sup>14</sup> See Notice of Informal Complaint No. IC 04-IO101831S, to Sprint from the Deputy Chief, Division, CGB, dated July 26, 2004.

<sup>15</sup> Sprint's Response to Informal Complaint No. 04-I0101831S, received August 16, 2004. The Division then notified the LEC, Frontier, of the complaint and sent Sprint's response to Frontier. Frontier responded. See Frontier's Response to Informal Complaint No. IC 04-I0101831S, received October 8, 2004.

<sup>16</sup> See *Division Order*, 19 FCC Rcd 23484 (2004).

<sup>17</sup> Notice of Petition for Reconsideration, Informal Complaint No. 04-IO101831S, to Sprint from the Deputy Chief, Division, CGB, dated May 3, 2006.

<sup>18</sup> Sprint's Response to Notice of Petition for Reconsideration, Informal Complaint No. 04-I0101831S, received May 16, 2006.

## II. DISCUSSION

6. Based on the record before us, we dismiss Frontier's *Petition*. In its *Petition*, Frontier states that, because neither it nor the Complainant received a copy of the *Division Order*, they were unable to reply to the *Division Order* within the 30-day period.<sup>19</sup> Frontier claims that, in its original response, it supplied all pertinent information about the unsolicited PIC change of Complainant's second telephone number. It states that Complainant and Frontier believe the information justifies a slamming charge against Sprint for that number. In response, Sprint states that Frontier has not provided any new information justifying reversal of the *Division Order*, that Frontier's *Petition* is untimely filed, and, therefore, that the *Petition* should be dismissed.

7. We dismiss Frontier's *Petition* on procedural grounds because Frontier's *Petition* was not timely filed. A petition for reconsideration must be filed within thirty days from the date upon which public notice is given of the order, decision, report, or action complained of.<sup>20</sup> The *Division Order* was released November 30, 2004, and Frontier filed its *Petition* on March 24, 2005. Thus, the *Petition* was not filed within 30 days of the release of the *Division Order*.<sup>21</sup> In response to Frontier's claim that neither it nor Complainant received a copy of the *Division Order*, we note that issuance of the *Division Order* constitutes public notice of the action taken by the Division.<sup>22</sup> As a result, we dismiss Frontier's *Petition*.

## IV. ORDERING CLAUSES

8. 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, 1.106 and 1.719 of the Commission's rules, 47 C.F.R. §§ 0.141, 0.361, 1.106 1.719, the *Petition for Reconsideration* filed by Frontier, a Citizens Communications Company on March 24, 2005, IS DISMISSED.

9. IT IS FURTHER ORDERED that this Order is effective UPON RELEASE.

FEDERAL COMMUNICATIONS COMMISSION

Catherine W. Seidel, Chief  
Consumer & Governmental Affairs Bureau

---

<sup>19</sup> See *Petition* at 1.

<sup>20</sup> See 47 U.S.C. § 405; see also 47 C.F.R. § 1.106(f).

<sup>21</sup> See 47 C.F.R. § 1.4(b).

<sup>22</sup> See 47 C.F.R. §§ 1.4(b), (b)(2).