

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

2001 FEB 28 A 11: 16

In the Matter of	)	
	)	
Implementation of the Subscriber Carrier	)	
Selection Changes Provisions of the	)	
Telecommunications Act of 1996	)	
	)	CC Docket No. 94-129
Policies and Rules Concerning	)	
Unauthorized Changes of Consumers	)	
Long Distance Carriers	)	

IVED

**ORDER**

Adopted: February 16, 2001

Released: February 22, 2001

By the Commission:

**I. INTRODUCTION**

1. In our *Third Report and Order*, the Commission amended in certain respects its rules to implement section 258 of the Communications Act of 1934, as amended by the Telecommunications Act of 1996.<sup>1</sup> Section 258 prohibits the practice of “slamming,” the unauthorized change in a subscriber’s selection of a provider of telephone exchange service or telephone toll service.<sup>2</sup> In this Order, we amend and clarify, on our own motion, certain aspects of the reporting and registration requirements adopted in the *Third Report and Order*.<sup>3</sup>

**II. BACKGROUND**

2. In December 1998, the Commission released the *Section 258 Order* in which it adopted aggressive new liability rules designed to take the profit out of slamming, broadened the scope of the slamming rules to encompass all carriers, and imposed more rigorous verification

<sup>1</sup> 47 U.S.C. § 258(a). Telecommunications Act of 1996, Pub. L. No. 104-104, 110 Stat. 56 (1996). *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*, CC Docket No. 94-129, Third Report and Order and Second Order on Reconsideration, 15 FCC Rcd 15996 (2000) (*Third Report and Order*); Errata, DA 00-2163 (rel. Sept. 25, 2000); Erratum, DA 00-2192 (rel. Oct. 4, 2000).

<sup>2</sup> 47 U.S.C. § 258(a).

<sup>3</sup> See 47 C.F.R. § 1.108. We note that the rules adopted in the *Third Report and Order* are not yet effective but will be revised to reflect these changes when a summary of the *Third Report and Order* is published in the Federal Register.

measures.<sup>4</sup> In the *First Reconsideration Order*, released May 3, 2000, the Commission modified the slamming liability rules adopted in the *Section 258 Order* and modified the procedures for administering them.<sup>5</sup>

3. In the *Third Report and Order*, released August 15, 2000, the Commission adopted rules to further improve the carrier change process for consumers and carriers, while making it more difficult for unscrupulous carriers to perpetrate slams. Specifically, the Commission: (1) amended the current carrier change authorization and verification rules to expressly permit the use of Internet Letters of Agency (Internet LOAs) in a manner consistent with the new E-Sign Act;<sup>6</sup> (2) directed the North American Numbering Plan Administration (NANPA) to eliminate the requirement that carriers purchase Feature Group D access in order to obtain a carrier identification code (CIC); (3) provided further guidance on independent third party verification; (4) defined the term “subscriber;” (5) required each carrier to submit a bi-annual report on the number of slamming complaints it receives;<sup>7</sup> and (6) expanded the existing registration requirement on carriers providing interstate telecommunications service to include additional facts that will assist the Commission’s enforcement efforts.<sup>8</sup>

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<sup>4</sup> *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 Rule Making, 14 FCC Rcd 1508 (1998) (*Section 258 Order or Further Notice*), *stayed in part*, *MCI WorldCom v. FCC*, No. 99-1125 (D.C. Cir. May 18, 1999), *motion to dissolve stay granted*, *MCI WorldCom v. FCC*, No. 99-1125 (D.C. Cir. June 27, 2000).

<sup>5</sup> *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, First Order on Reconsideration, 15 FCC Rcd 8158 (rel. May 3, 2000) (*First Reconsideration Order*). On August 3, 2000, the Federal Register published a summary of the text of the First Reconsideration Order. The Office of Management and Budget (OMB) approved the information collections contained in the First Reconsideration Order on October 3, 2000. The revised slamming liability rules took effect on November 28, 2000. See *FCC Announces Effective Date of Revised Slamming Liability Rules*, Public Notice, DA 00-2427 (rel. Oct. 27, 2000); *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*, 65 FR 66934 (rel. Nov. 8, 2000).

<sup>6</sup> See *Electronic Signatures in Global and National Commerce Act*, S. 761, 106<sup>th</sup> Cong., 2d Sess. (signed into law June 30, 2000). See also *Third Report and Order*, 15 FCC Rcd 15996, at paras. 12-14.

<sup>7</sup> *Third Report and Order*, 15 FCC Rcd 15996, at paras. 53-58 (2000).

<sup>8</sup> *Third Report and Order*, 15 FCC Rcd 15996, at paras. 59-66 (2000). In the *Second Order on Reconsideration*, the Commission upheld its rules governing the submission of preferred carrier freeze orders, the handling of preferred carrier change requests and freeze orders in the same transaction, and the automated submission and administration of freeze orders and changes. *Id.* at paras. 69-73. The Commission also adopted a 60-day limit on the validity of an LOA confirming a carrier change request. Finally, the Commission clarified certain rules regarding the payment of preferred carrier change charges after a slam. *Id.* at paras. 84-86.

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## II. DISCUSSION

### A. Submission of Reports By Carriers

4. Background. In the *Third Report and Order*, the Commission determined that telecommunications carriers should periodically submit reports regarding slamming complaints they receive.<sup>9</sup> The Commission concluded that the information contained in these reports will enable the Commission to identify, as soon as possible, the carriers that repeatedly initiate unauthorized changes. Accordingly, the Commission directed each carrier to submit a reporting form identifying the number of complaints received and the number of such complaints that the carrier has investigated and found to be valid. The Commission also required carriers to identify the number of slamming complaints involving local intrastate and interstate exchange service, investigated or not, that the carrier has resolved directly with subscribers. In addition, the Commission directed facilities-based local exchange carriers (LECs) to include in their reports the name of the entity against which the complaint is directed and the number of complaints involving unauthorized changes that have been lodged against that entity.<sup>10</sup>

5. Discussion. In the instant Order, we amend our rules to require that, for purposes of complying with the reporting requirement for calendar year 2001, carriers shall file their first slamming complaint reports on August 15, 2001, to cover the period commencing on the effective date of this requirement, as announced in the Federal Register, and ending on June 30, 2001.<sup>11</sup> Reports for the second half of 2001 shall be filed on February 15, 2002, covering the period between July 1, 2001 and December 31, 2001. Thereafter, carriers shall submit their semiannual slamming complaint reports on August 15 (covering January 1 through June 30) and on February 15 (covering July 1 through December 31).<sup>12</sup>

6. We also take this opportunity to amend section 64.1180(a) of our rules to apply the reporting requirement to all carriers providing telephone exchange service and/or telephone toll service. Section 258 provides that “no telecommunications carrier shall submit or execute a

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<sup>9</sup> *Third Report and Order*, 15 FCC Rcd 15996, at paras. 55-56.

<sup>10</sup> *Third Report and Order*, 15 FCC Rcd 15996, at paras. 55-56. Reporting originally was to commence on February 15, 2001 for calendar year 2000, and was to continue on a bi-annual basis thereafter on August 15 (covering January 1 through May 31) and on February 15 (covering June 1 through December 31).<sup>10</sup> For purposes of complying with the reporting requirement for calendar year 2000, carriers were to submit reports containing the requisite information gathered between the effective date of this requirement, as announced in the Federal Register, and December 31, 2000. Because the rules contained in the *Third Report and Order* have not yet become effective, however, carriers are not obligated to file reports on February 15, 2001. See *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*, CC Docket No. 94-129, Order, DA 00-2790 (Comm. Car. Bur. rel. Dec. 22, 2000).

<sup>11</sup> See n.12, *infra*.

<sup>12</sup> We note that, in the text of the “Submission of Reports” section of the *Third Report and Order*, and in the accompanying rule at Appendix A (*i.e.*, Section 64.1180), we inadvertently designated a five-month period (*i.e.*, January 1 through May 31) and a seven-month period (June 1 through December 31) as the relevant time frames for reporting. See *Third Report and Order*, 15 FCC Rcd 15996, at para. 56; Appendix A at 64.1180(c).

change in a subscriber's selection of a provider of telephone exchange service or telephone toll service except in accordance" with Commission procedures.<sup>13</sup> With this amendment, the language of our rules will track the statutory language and will require all carriers affected by section 258 to file slamming complaint reports.

7. In addition, we clarify that, to satisfy section 64.1180(b)(6) of the reporting requirement, a carrier shall report the total number of subscribers it is serving at the end of the relevant reporting period, rather than the number it is serving on the date the report is filed. We also modify section 64.1180(b)(4) and (b)(5) of our rules to apply to wireline or fixed wireless local exchange carrier providing service to end user subscribers.<sup>14</sup> We make this modification to eliminate possible confusion as to the type of carriers to which subsections (b)(4) and (b)(5) apply. Accordingly, these carriers must report the names of the entities against which slamming complaints were directed, as well as the number of slamming complaints they received against each such entity during the relevant reporting period.

### **B. Registration Requirement**

8. Background. In the *Third Report and Order*, the Commission concluded that all new and existing common carriers providing interstate interexchange telecommunications service must register with the Commission.<sup>15</sup> The Commission determined that such a registration requirement would enable us to better monitor the entry of carriers into the interstate telecommunications market and any associated increases in slamming activity, and would also enhance our ability to take appropriate enforcement action against carriers that have demonstrated a pattern or practice of slamming.<sup>16</sup>

9. To that end, the Commission decided to revise the Telecommunications Reporting Worksheet (FCC Form 499-A), which telecommunications carriers must file in April of each year, to include the following additional information: the carrier's business name(s) and primary address; the names and business addresses of the carrier's chief executive officer, chairman, and president, or, in the event that it does not have such executives, three similarly senior-level company officials; the carrier's regulatory contact and/or designated agent for service of process; all names under which the carrier has conducted business in the past; and the state(s) in which the carrier is certified to provide service.<sup>17</sup> The Commission also concluded that a carrier should

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<sup>13</sup> 47 U.S.C. § 258(a).

<sup>14</sup> A wireline or fixed wireless local exchange carrier typically would identify itself as an incumbent local exchange carrier, competitive access provider, competitive local exchange carrier, local reseller, or shared tenant service provider when filing the Form 499-A Telecommunications Reporting Worksheet and would include all entities reporting revenue on Line 404 of such form.

<sup>15</sup> *Third Report and Order*, 15 FCC Rcd 15996, at para. 62.

<sup>16</sup> *Third Report and Order*, 15 FCC Rcd 15996, at para. 62.

<sup>17</sup> *Third Report and Order*, 15 FCC Rcd 15996, at para. 63. On the next scheduled filing date for the Form 499-A, April 1, 2001, carriers will file the revised form containing the additional information described above in accordance with the Instructions to FCC Form 499-A.

update its registration to reflect any changes by submitting the revised relevant portion of the FCC Form 499-A within no more than one week of the change.<sup>18</sup> The Commission determined that a carrier that fails to register with the Commission or provides false or misleading information in its registration may, after notice and opportunity to respond, be fined or have its operating authority revoked or suspended.<sup>19</sup>

10. In addition, the Commission concluded that facilities-based carriers should have an affirmative duty to ascertain whether a potential carrier-customer (*i.e.*, a reseller) has filed a registration with the Commission *prior to* providing that carrier-customer with service.<sup>20</sup> The Commission stated that, in situations where a facilities-based carrier is currently providing a reseller with service, the reseller must notify its underlying facilities-based carrier that it has submitted the registration information to the Commission, within a week of having done so.<sup>21</sup> The Commission concluded that carriers that fail to determine the registration status of other carriers before providing them with service may, after notice and opportunity to respond, be subject to a fine.<sup>22</sup>

11. Discussion. In this Order, we amend and clarify, on our own motion, certain aspects of the registration requirement discussed above. First, with regard to the applicability of the registration requirement, as addressed in section 64.1195(a), we clarify that all new and existing carriers providing interstate telecommunications service shall register with the Commission. This registration requirement enables the Commission to monitor those carriers providing telephone exchange service and telephone toll service, in a manner consistent with section 258 of the statute.<sup>23</sup>

12. Second, with regard to the information carriers are required to provide under section 64.1195(b), the *Third Report and Order* directs carriers subject to the registration requirement to list, among other things, “the state(s) in which the carrier is certified to provide service.”<sup>24</sup> In this Order, we clarify that a carrier required to register must list all states in which it provides telecommunications service. We are amending the language of section 64.1195(b)(5) to reflect this clarification because some states may not have a certification process for providers of telecommunications services, and because a carrier’s provision of non-telecommunications services is not relevant here. We intend this clarification to prevent any possible carrier confusion regarding information that must be listed under section 64.1195(b)(5).

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<sup>18</sup> *Third Report and Order*, 15 FCC Rcd 15996, at para. 63. *See also* 47 C.F.R. § 1.47.

<sup>19</sup> *Third Report and Order*, 15 FCC Rcd 15996, at para. 64.

<sup>20</sup> *See Third Report and Order*, 15 FCC Rcd 15996, at para. 65.

<sup>21</sup> *See Third Report and Order*, 15 FCC Rcd 15996, at para. 65.

<sup>22</sup> *See Third Report and Order*, 15 FCC Rcd 15996, at para. 66.

<sup>23</sup> 47 U.S.C. § 258.

<sup>24</sup> *See Third Report and Order*, 15 FCC Rcd 15996, at para. 63; Appendix A at 64.1195(b)(5).

13. Finally, section 64.1195(h) of our rules, as adopted in the *Third Report and Order*, imposed on facilities-based carriers the affirmative duty to ascertain whether a potential carrier-customer (*i.e.*, reseller) that is subject to section 64.1195(a) has registered with the Commission before it offers service to that carrier-customer.<sup>25</sup> We recognize that the term “facilities-based carrier” may not encompass all carriers that offer telecommunications service for resale and thus may engender confusion.<sup>26</sup> To ensure the effectiveness of this duty, we amend section 64.1195(h) of our rules to require any telecommunications carrier providing telecommunications service for resale to ascertain the registration status of a potential carrier-customer prior to offering telecommunications service to that carrier-customer.

#### IV. PROCEDURAL MATTERS

##### A. Supplemental Final Regulatory Flexibility Analysis.

14. As required by the Regulatory Flexibility Act (RFA),<sup>27</sup> an Initial Regulatory Flexibility Analysis (IRFA)<sup>28</sup> was incorporated in the Further Notice of Proposed Rulemaking and Memorandum Opinion and Order on Reconsideration in this proceeding.<sup>29</sup> The Commission sought written public comment on the proposals in the *Further Notice and Order*, including comment on the IRFA. A Final Regulatory Flexibility Analysis (FRFA) was incorporated in the subsequent *Section 258 Order*<sup>30</sup> and *Third Report and Order*<sup>31</sup> in this proceeding. The instant Order modifies and clarifies, *sua sponte*, certain aspects of the reporting and registration requirements adopted in the *Third Report and Order*. This associated Supplemental FRFA reflects revised information to that contained in the FRFA. This Supplemental FRFA is thus limited to matters addressed in this Order. This Supplemental FRFA conforms to the RFA.<sup>32</sup>

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<sup>25</sup> See *Third Report and Order*, 15 FCC Rcd 15996, at paras. 65-66; Appendix A at 64.1195(h).

<sup>26</sup> For instance, in a situation where carrier A, a “facilities-based carrier,” resells service to carrier B, which, in turn, resells service to carrier C, there may be some confusion as to whether the duty to ascertain the registration status of carrier C applies to carrier A and/or carrier B. In this example, our clarified rule would require carrier A to confirm the registration status of carrier B, and would also require carrier B to confirm the registration status of carrier C.

<sup>27</sup> See 5 U.S.C. § 603. The RFA, see 5 U.S.C. § 601, *et. seq.*, was amended by the Contract with America Advancement Act of 1996, Pub. L. 104-121, 110 Stat. 87 (1996) (CWAA). Title II of the CWAA is the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA).

<sup>28</sup> 5 U.S.C. § 603.

<sup>29</sup> *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*, Further Notice of Proposed Rulemaking and Memorandum Opinion and Order, 12 FCC Rcd 10674 (1997) (*Further Notice and Order*).

<sup>30</sup> *Section 258 Order*, 14 FCC Rcd 1508, 1611.

<sup>31</sup> *Third Report and Order*, 15 FCC Rcd 15996, at paras. 89-119.

<sup>32</sup> See 5 U.S.C. § 604.

## 1. Need For and Objectives of this Action

15. Section 258 of the Act makes it unlawful for any telecommunications carrier “to submit or execute a change in a subscriber’s selection of a provider of telephone exchange services or telephone toll service except in accordance with such verification procedures as the Commission shall prescribe.” In the *Section 258 Order*, the Commission established a comprehensive framework of rules to implement section 258 and strengthen its existing anti-slamming rules.<sup>33</sup> Concurrent with the release of the *Section 258 Order*, the Commission issued a *Further Notice* seeking comment on a number of additional proposals to further improve the preferred carrier change process and to prevent unauthorized carrier changes. In the *Third Report and Order*, the Commission adopted some of the proposals set forth in the *Further Notice*. Specifically, the Commission: (1) amended the current carrier change authorization and verification rules to expressly permit the use of Internet Letters of Agency (Internet LOAs) in a manner consistent with the new E-Sign Act;<sup>34</sup> (2) directed the North American Numbering Plan Administration (NANPA) to eliminate the requirement that carriers purchase Feature Group D access in order to obtain a carrier identification code (CIC);<sup>35</sup> (3) provided further guidance on the independent third party verification process;<sup>36</sup> (4) defined the term “subscriber” for purposes of its slamming rules;<sup>37</sup> (5) required each carrier to submit a bi-annual report on the number of slamming complaints it receives;<sup>38</sup> and (6) expanded the existing registration requirement on carriers providing interstate telecommunications service to include additional facts that will assist the Commission’s enforcement efforts.<sup>39</sup> The objectives of the rules modified and clarified in the instant Order are to implement section 258 by improving the preferred carrier change process and strengthening the Commission’s framework of anti-slamming rules. For example, this Order clarifies that carriers providing telephone exchange service and/or telephone toll service shall submit semiannual slamming complaint reports. In addition, the Order provides further clarification with regard to the carriers to which the registration requirement applies and the information that such carriers are required to provide.

## 2. Summary of Significant Issues Raised by Public Comments in Response to the IRFA.

16. The Commission received no comments directly in response to the IRFA.

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<sup>33</sup> See *Section 258 Order*, 14 FCC Rcd 1508, at paras. 1-4. See also *supra*, para. 2.

<sup>34</sup> E-Sign Act at §§ 101, 104(e). See *Third Report and Order*, 15 FCC Rcd 15996, at paras. 6-21.

<sup>35</sup> See *Third Report and Order*, 15 FCC Rcd 15996, at paras. 22-31.

<sup>36</sup> See *Third Report and Order*, 15 FCC Rcd 15996, at paras. 33-45.

<sup>37</sup> See *Third Report and Order*, 15 FCC Rcd 15996, at paras. 46-52.

<sup>38</sup> See *Third Report and Order*, 15 FCC Rcd 15996, at paras. 53-58.

<sup>39</sup> See *Third Report and Order*, 15 FCC Rcd 15996, at paras. 59-66.

### 3. Description and Estimate of the Number of Small Entities To Which this Action Will Apply.

17. In the associated FRFA,<sup>40</sup> we have provided a detailed description of the pertinent small entities. Those entities include wireline carriers, local exchange carriers, interexchange carriers, competitive access providers, resellers, and wireless carriers. We hereby incorporate those detailed descriptions by reference.

### 4. Summary of Projected Reporting, Recordkeeping, and Other Compliance Requirements

18. Submission of Reports by Carriers. In this Order,<sup>41</sup> the Commission clarifies that all providers of telephone exchange service and/or telephone toll service are subject to the reporting requirement. This Order also modifies the dates on which each such carrier is required to submit a semiannual report identifying, among other things, the number of complaints involving unauthorized changes that it has received. Specifically, reporting is to commence on August 15, 2001 and shall cover the period between January 1, 2001, or the effective date of this requirement as announced in the Federal Register, whichever is later, and June 30, 2001. Reports filed on February 15, 2002, shall cover the period between July 1, 2001 and December 31, 2001. Carriers are required to submit their semiannual slamming complaint reports thereafter on August 15 (covering January 1 through June 30) and on February 15 (covering July 1 through December 31).

19. Registration Requirement. In this Order,<sup>42</sup> the Commission clarifies that all telecommunications carriers providing interstate telecommunications service are required to register with the Commission and establishes that any telecommunications carrier providing telecommunications service for resale has an affirmative duty to confirm that a reseller has registered with the Commission prior to providing that reseller with service. The Commission also clarifies that the annually-filed Telecommunications Reporting Worksheet (FCC Form 499-A), which must be filed by all telecommunications carriers in April of each year, will include the following additional information that is targeted to assist the Commission's anti-slamming efforts: the carrier's business name(s) and primary address; the carrier's regulatory contact and/or designated agent for service of process; all names under which the carrier has conducted business in the past; and the state(s) in which the carrier provides telecommunications service. This modified registration requirement will enable the Commission to monitor the entry of carriers into the interstate telecommunications market and any associated increases in slamming, enhance the Commission's ability to take appropriate enforcement action against carriers that have demonstrated a pattern or practice of slamming, and deter telecommunications carriers from providing service to unregistered resellers.

<sup>40</sup> See *Third Report and Order*, 15 FCC Rcd 15996, at paras. 95-108.

<sup>41</sup> See paras. 5-6, *supra*.

<sup>42</sup> See paras. 5-6, *supra*.

## 5. Steps Taken to Minimize the Significant Economic Impact of This Action on Small Entities, and Significant Alternatives Considered

20. As noted, in this Order, we have clarified and amended, on our own motion, certain aspects of the reporting and registration requirements adopted in the *Third Report and Order*. For example, this Order requires that carriers providing telephone exchange service and/or telephone toll service shall submit semiannual slamming complaint reports. In addition, the Order provides further clarification and modification with regard to the carriers to which the registration requirement applies and the information that such carriers must provide. As a result, we expect that these clarifications and amendments will eliminate any possible confusion for all affected carriers, including small entity carriers. If we had not taken these steps, carriers might have been unclear as to whether they had a duty to comply with the reporting and registration requirements.

## 6. Report to Congress

21. The Commission will send a copy of the instant Order, including this Supplemental FRFA, in a report to Congress pursuant to the Congressional Review Act.<sup>43</sup> In addition, the Commission will send a copy of the instant Order, including the Supplemental FRFA, to the Chief Counsel for Advocacy of the Small Business Administration. A copy of the Third Report and Order and Supplemental FRFA (or summaries thereof) also will be published in the Federal Register.<sup>44</sup>

### C. Paperwork Reduction Act

22. The action contained herein has been analyzed with respect to the Paperwork Reduction Act of 1995 and found to impose new or modified reporting and recordkeeping requirements or burdens on the public. Implementation of these new or modified reporting and recordkeeping requirements will be subject to approval by the OMB as prescribed by the Act and will go into effect upon announcement in the Federal Register of OMB approval.

## V. ORDERING CLAUSES

23. Accordingly, IT IS ORDERED that pursuant to sections 1, 4, 201-205, 258, and 405 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 151, 154, 201-205, 258, and 405, the policies, rules, and requirements set forth herein ARE ADOPTED.

24. IT IS FURTHER ORDERED that 47 C.F.R. Part 64 IS AMENDED as set forth in Appendix A.

25. IT IS FURTHER ORDERED that the requirements or rules adopted herein pertain to new or modified reporting and recordkeeping requirements and are subject to approval by the

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<sup>43</sup> See 5 U.S.C. § 801(a)(1)(A).

<sup>44</sup> See 5 U.S.C. § 604(b).

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Office of Management and Budget (OMB). These requirements and rules shall become effective no sooner than 30 days after publication of a summary of this item in the Federal Register, upon announcement in the Federal Register of OMB approval.

26. IT IS FURTHER ORDERED that the Commission's Consumer Information Bureau, Reference Information Center, SHALL SEND a copy of this Order, including the Supplemental Final Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of the Small Business Administration.

FEDERAL COMMUNICATIONS COMMISSION



Magalie Roman Salas  
Secretary

## APPENDIX A

## RULES AMENDED

**Part 64 of the Commissions Rules and Regulations, Chapter 1 of Title 47 of the Code of Federal Regulations, is amended as follows:**

1. Part 64, Subpart K, is further amended by revising section 64.1180 to read as follows:

**§64.1180 Reporting Requirement**

(a) *Applicability.* Each provider of telephone exchange and/or telephone toll service shall submit to the Commission via e-mail ([slamming478@fcc.gov](mailto:slamming478@fcc.gov)), U.S. Mail, or facsimile a slamming complaint report form identifying the number of slamming complaints received during the reporting period and other information as specified in subsection (b) of this section.

(b) *Contents of Report.* The report shall contain the following information:

- (1) the information specified in subsection (a) of this section;
- (2) the number of slamming complaints received during the reporting period that the carrier has investigated and found to be valid.
- (3) the number of slamming complaints received during the reporting period, investigated or not, that the carrier has directly resolved with consumers;
- (4) if the reporting carrier is a wireline or fixed wireless local exchange carrier providing service to end user subscribers, the name of each entity against which the slamming complaints received during the reporting period were directed;
- (5) if the reporting carrier is a wireline or fixed wireless local exchange carrier providing service to end user subscribers, the number of slamming complaints received during the reporting period that were lodged against each entity identified in subsection (b)(4) of this section; and
- (6) the total number of subscribers the reporting carrier is serving at the end of the relevant reporting period.

(c) *Semiannual Reporting Requirement.* Reporting shall commence on August 15, 2001, covering the effective date of this requirement, as announced in the Federal Register, through June 30, 2001. Reports filed on February 15, 2002 shall cover the period between July 1, 2001 and December 31, 2001. Thereafter, carriers subject to the reporting requirement pursuant to subsection (a) of this section shall submit semiannual slamming complaint reports on August 15 (covering January 1 through June 30) and on February 15 (covering July 1 through December 31).

2. Part 64, Subpart K, is further amended by revising section 64.1195 to read as follows:

**§ 64.1195 Registration Requirement**

(a) *Applicability.* A telecommunications carrier that will provide interstate telecommunications service shall file the registration information described in subsection (b) of this section in accordance with the procedures described in subsections (c) and (g) of this section. Any telecommunications carrier already providing interstate telecommunications service on the effective date of these rules shall submit the relevant portion of its FCC Form 499-A in accordance with subsections (b) and (c).

(b) *Information Required for Purposes of Part 64.* A telecommunications carrier that is subject to the registration requirement pursuant to subsection (a) of this section shall provide the following information:

- (1) the carrier's business name(s) and primary address;
- (2) the names and business addresses of the carrier's chief executive officer, chairman, and president, or, in the event that a company does not have such executives, three similarly senior-level officials of the company;
- (3) the carrier's regulatory contact and/or designated agent;
- (4) all names that the carrier has used in the past; and
- (5) the state(s) in which the carrier provides telecommunications service.

(c) *Submission of Registration.* A carrier that is subject to the registration requirement pursuant to subsection (a) of this section shall submit the information described in subsection (b) of this section in accordance with the Instructions to FCC Form 499-A. FCC Form 499-A must be submitted under oath and penalty of perjury.

(d) *Rejection of Registration.* The Commission may reject or suspend a carrier's registration for any of the reasons identified in subsections (e) or (f) of this section.

(e) *Revocation or Suspension of Operating Authority.* After notice and opportunity to respond, the Commission may revoke or suspend the authorization of a carrier to provide service if the carrier provides materially false or incomplete information in its FCC Form 499-A or otherwise fails to comply with subsections (a), (b), and (c) of this section.

(f) *Imposition of Fine.* After notice and opportunity to respond, the Commission may impose a fine on a carrier that is subject to the registration requirement pursuant to subsection (a) of this section if that carrier fails to submit an FCC Form 499-A in accordance with subsections (a), (b), and (c).

(g) *Changes in Information.* A carrier must notify the Commission of any changes to the information provided pursuant to subsection (b) of this section within no more than one week of the change. Carriers may satisfy this requirement by filing the relevant portion of FCC Form 499-A in accordance with the Instructions to such form.

(h) *Duty to Confirm Registration of Other Carriers.* The Commission shall make available to the public a comprehensive listing of registrants and the information that they have provided pursuant to subsection (b) of this section. A telecommunications carrier providing telecommunications service for resale shall have an affirmative duty to ascertain whether a potential carrier-customer (*i.e.*, reseller) that is subject to the registration requirement pursuant to subsection (a) of this section has filed an FCC Form 499-A with the Commission prior to offering telecommunications service to that carrier-customer. After notice and opportunity to respond, the Commission may impose a fine on a carrier for failure to confirm the registration status of a potential carrier-customer before providing that carrier-customer with service.