

FHH Telecom Law
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FCC and Court Both Change Slamming Rules

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A federal court has set aside a key FCC rule intended to deter "slamming" -- the unauthorized change of a telephone subscriber's long-distance-carrier. And the FCC has put through rule changes of its own.

The court case, which arose from an \$80,000 fine against AT&T, turned on the FCC's requirements for verifying that a customer really does want to change carriers. Congress authorized the FCC to adopt verification procedures. But the FCC added a requirement of its own: that the new carrier obtain confirmation from the "actual subscriber" of that telephone number. The court held this to be an impossible task, as the carrier had no way to ascertain that the person who answered the phone in fact was the actual subscriber.

Prior to that decision, the FCC changed certain other details. A carrier's sales person who convinces a customer to switch can then transfer the call to an independent third party for verification of the customer's intent. Where the FCC formerly required the sales person to drop off the third-party call, it now lets the sales person stay on, in cases where the sales person's phone system is technically unable to disconnect. In addition, the FCC dropped a reporting requirement, and also clarified liability in cases where a fraudulent carrier change request originates with the local exchange carrier, rather than the new long-distance carrier.

The FCC seeks further comment on its verification requirements, and is likely to expand the inquiry in response to the court decision. In the meantime, comments on its first set of changes are due June 2, and reply comments on June 17.