



CUSTOMER
ASSISTANCE

ORDER TO SHOW
CAUSE

(SERVICE LIST ATTACHED)

The New Jersey Board of Public Utilities ("Board"), an agency within a principal department of the Executive Branch of State Government, with principal offices at Two Gateway Center, Newark, Essex County, New Jersey, by way of Order to Show Cause, alleges:

- 1) The Board, pursuant to N.J.S.A. 48:2-13 and N.J.S.A. 48:2-1 et seq., has been granted general supervision and regulation of and jurisdiction and control over all public utilities, including individuals, co-partnerships, associations and corporations, that own, manage or control telecommunications facilities that operate in New Jersey as well as their property, property rights, equipment, facilities and franchises.
- 2) The Board, pursuant to N.J.S.A. 48:2-1 et seq., is vested with the authority to regulate all aspects of public utilities in the State of New Jersey, and to adopt rules and regulations concerning such activities, and, pursuant to N.J.S.A. 48:2-19, to investigate any matter involving a public utility.
- 3) The Board, pursuant to N.J.S.A. 56:8-86 through 8-91, the New Jersey Consumer Fraud Act ("Act"), has jurisdiction to investigate allegations of slamming and to enforce the anti-slamming provisions of said Act.
- 4) On April 20, 2004, Respondent NationsLine New Jersey, Inc. ("NL") filed a petition with the Board and was later granted Authority to provide telecommunications services throughout New Jersey.

- 5) Respondent NL is a public utility in the State of New Jersey, and a provider of telecommunications services subject to the jurisdiction of the Board with an address of record at P.O. Box 11845, Roanoke, Virginia.
- 6) After notification by the Board's Division of Telecommunications that NL had acquired all of the New Jersey telecommunications customers of CAT Communications International, Inc. ("CAT"), the Board's Division of Customer Assistance, Bureau of Investigations initiated an investigation into the procedure utilized by NL to bulk transfer CAT's approximately 10,000 New Jersey customers to NL during the period December 2004 through April 2005. N.J.A.C. 14:10-11.6(k)&(l), formerly codified as N.J.A.C. 14:10-11.3(f) provides that a telecommunications service provider ("TSP") may acquire, through a sale or transfer, either part or all of another TSP's customer base without obtaining each customer's authorization and verification by complying with the Federal Communication Commission ("Commission") rules set forth at 47 C.F.R. Section 64.1120(e), and specifically provides that copies of the letter notifications filed with the Commission must also be filed with the Board.

The Commission's rules provide that no later than 30 days before the planned transfer of the affected subscribers, the acquiring carrier shall file with the Commission (a) notice of such transfer, (b) certify compliance with the requirement to provide advance subscriber notice and (c) attach a copy of the notice sent to the affected subscribers. The acquiring carrier must provide 30 days prior written notice of the transfer to affected subscribers in compliance with 47 U.S.C. 255 and the Commission's rules regarding accessibility to blind and visually-impaired consumers. 47 C.F.R. Section 64.1120(e)(1) and (3).

The Commission requires that the following information be included in the advance subscriber notice: (i) date on which the acquiring carrier will become the subscriber's new TSP; (ii) rates, terms and conditions of service to be provided by acquiring carrier upon transfer and the means by which the acquiring carrier will notify the subscriber of an change to the rates, terms and conditions; (iii) the acquiring carrier will be responsible for any carrier change charges associated with the transfer; (iv) all subscribers receiving the notice will be transferred to the acquiring carrier, unless they have selected a different carrier before the transfer date; (v) whether the acquiring carrier will be responsible for handling any complaints prior to or during the transfer against the selling or transferring carrier; and (vii) the toll-free customer service telephone number of the acquiring carrier. 47 C.F.R. Section 64.1120(e)(3).

- 7) NL provided notice of the transfer to the Commission on January 21, 2005, but did not attach a copy of the notice sent to affected subscribers as required by Section 64.1120(e)(2). NL did not provide a copy of the mandated notice of transfer to the Board or a copy of the notice sent to affected subscribers as required under N.J.A.C. 14:10-11.6(k)&(l).
- 8) In a letter dated July 15, 2005, Board Staff notified Dominick W. Marchitto, President of NL, that it was conducting an investigation into the procedures used by NL in the bulk transfer of CAT customers to NL and requested documentation to validate the customer transfers. In response to Board Staff's request, NL provided approximately 6,426 letters which NL claimed were sent to customers to notify them of their change of TSP from CAT to NL. NL also provided approximately 3,735 recordings of customer calls and claimed that these were recordings of an independent third party obtaining the customer's oral authorization to change his/her primary TSP.
- 9) Board Staff reviewed 6,426 pieces of marketing material which NL claimed were "letters" sent to customers in compliance with 47 C.F.R. Section 64.1120(e) to notify them of their

change of TSP from CAT to NL. Board Staff found that the "letters" were not in a letter format and that the primary purpose of the material appeared to be to market the services of NL and not to notify customers of a change in their TSP. The material thanked the addressee "for Calling NationsLine!" and stated that "CCI and NationsLine Have Joined Hands" and emphasized that the customer would continue to "enjoy all the great features and affordable prices for your home phone service..." The notice with the required content that the customer's TSP was being changed effective February 21, 2005, was in a small-type face footnote which may or may not have been read by customers. Additionally, in 1,358 of the 6,426 cases where this material was sent to CAT customers, the customers were transferred to NL before February 21, 2005 and did not receive the required 30-day prior notice of the transfer.

- 10) Board Staff reviewed the approximately 3,735 recordings and concluded that these were recordings of marketing calls conducted by NL, and not calls conducted by an independent third party verifier to verify a customer's change of TSP as represented by NL. The NL representatives identified themselves as "CCI/NationsLine," and the purpose of the call appeared to be to solicit customers to upgrade the service they had subscribed to with CAT. None of the representatives on these recordings transferred the customers to an independent third party for verification of a TSP change. Accordingly, these calls failed to meet the requirements for a valid independent third party verification ("TPV") as set forth in N.J.A.C. 14:10-11.6(b). This rule specifically requires, to ensure verification of an order changing a customer's primary TSP, that an appropriately qualified independent third party has obtained the customer's oral authorization to submit the TSP change and includes appropriate verification data. The independent third party shall not be owned, managed, controlled, or directed by the TSP or the TSP's marketing agent. . .and shall operate in a location physically separate from the TSP or the TSP's marketing agent. The content of the verification must include a clear and conspicuous confirmation that the customer has authorized a primary TSP change. Pursuant to N.J.A.C. 14:10-11.6(e), all third-party verification methods are to elicit certain information including: (1) confirmation of the identity of the customer, (2) date of the verification, (3) confirmation that person on call is authorized to make the TSP switch, (4) confirmation that the person on the call wants to make the TSP switch, (5) names of the TSPs affected by the change, (5) names of the TSPs affected by the change, (6) each of the telephone numbers that will be affected by the switch, and (7) the types of service being switched.

The Board HEREBY ORDERS:

- 1) NL to show cause before the Board why the Board should not find that NL: (a.) failed to provide notice to the Board 30 days prior to the transfer of CAT customers to NL and failed to provide a copy of the notice sent to affected subscribers; (b.) failed to submit clear, sufficient notice of the transfer to each of the approximately 10,000 CAT customers it was attempting to acquire no later than 30 days prior to the transfer (c.) transferred CAT customers to NL before the 30-day mandated notice period for the transfer had elapsed.
- 2) NL to file an Answer to this Order to Show Cause and any and all documents or other written evidence upon which NL relies in responding to the within Order to Show Cause within twenty (20) days of service of this Order in accordance with N.J.A.C. 1:1-6.1.

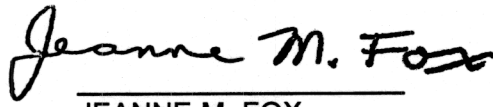
The Board FURTHER ORDERS:


- 1) NL to appear at such time and place as shall be determined by the Board to answer why the Board should not invoke the maximum civil administrative penalties, not to exceed \$7,500 for each violation and not to exceed \$15,000 for each subsequent violation associated with a specific access line, and other relief, including the costs of this proceeding and investigation allowed under N.J.S.A. 56:8-91 for violation of N.J. A.C. 14:10-11 et seq. and N.J.S.A. 56:8-86 through 8-90.

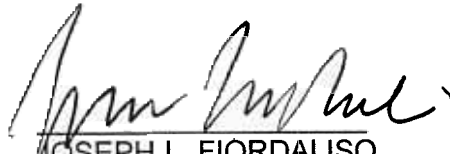
The Board HEREBY DIRECTS that a certified copy of this Order be served upon Respondents pursuant to N.J.S.A. 48:2-40.

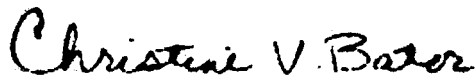
DATED: 11/9/07

BOARD OF PUBLIC UTILITIES
BY:


JEANNE M. FOX
PRESIDENT


FREDERICK F. BUTLER
COMMISSIONER

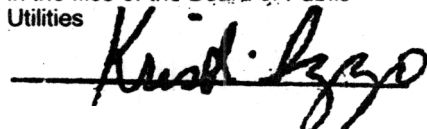

JOSEPH L. FIORDALISO
COMMISSIONER


CHRISTINE V. BATOR
COMMISSIONER

ATTEST:


KRISTI IZZO
SECRETARY

I HEREBY CERTIFY that the within
document is a true copy of the original
in the files of the Board of Public
Utilities



In the Matter of the Slamming Investigation of NationsLine New Jersey Inc.
BPU Dkt. No. TC05090835S

SERVICE LIST

Arlene Pasko
Deputy Attorney General
State of New Jersey
Division of Law
124 Halsey Street
P.O. Box 45029
Newark, New Jersey 07101
arlene.pasko@dol.lps.state.nj.us

Eric Hartsfield, Director
Division of Customer Assistance
Board of Public Utilities
2 Gateway Center
Newark, New Jersey 07101
eric.hartsfield@bpu.state.nj.us

Carol Artale, Legal Specialist
Board of Public Utilities
2 Gateway Center
Newark, New Jersey 07101
carol.artale@bpu.state.nj.us

Dominick W. Marchitto, President
NationsLine New Jersey Inc.
3435 Chip Drive
Roanoke, VA 24012
dmarchitto@nationsline.com

Valerie Haynes, Manager
Board of Public Utilities
2 Gateway Center
Newark, New Jersey 07101
valerie.haynes@bpu.state.nj.us

Stephen Athanson
General Counsel
Nationsline New Jersey Inc.
3435 Chip Drive
Roanoke, VA 24012
sathanson@nationsline.com

Charles Kaczka, Supervisor
Board of Public Utilities
2 Gateway Center
Newark, New Jersey 07101
charles.kaczka@bpu.state.nj.us