

Telecommunications Slamming Complaint Reporting Form FCC Form 478-Feb

Instructions for Completing the Telecommunications Slamming Complaint Reporting Form

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NOTICE TO INDIVIDUALS: Section 64.1180 of the Federal Communications Commission's rules requires all telecommunications carriers providing telephone exchange service and/or telephone toll service to file this Telecommunications Slamming Complaint Reporting Form (FCC Form 478) in February and August of every year.

This collection of information stems from the Commission's authority under Sections 1, 4, 201-205, and 258 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 151, 154, 201-205, and 258. The data collected in the FCC Form 478 will be used to monitor carrier compliance with the Commission's slamming rules. Selected information provided in the FCC Form 478 will be made available to the public in a manner consistent with the Commission's rules.

We have estimated that each response to this collection of information will take, on average, 7 hours. Our estimate includes the time to read the instructions, look through existing records, gather and maintain the required data, and actually review and complete the FCC Form 478. If you have any comments on this estimate, or how we can improve the collection and reduce the burden it causes you, please write the Federal Communications Commission, AMD-PERM, Washington, D.C. 20554, Paperwork Reduction Project (3060-0787). We also will accept your comments via the Internet if you send them to jboley@fcc.gov. Please **DO NOT SEND COMPLETED FORMS TO THIS ADDRESS**.

Remember -- You are not required to respond to a collection of information sponsored by the Federal government, and the government may not conduct or sponsor this collection, unless it displays a currently valid Office of Management and Budget (OMB) control number. This collection has been assigned an OMB control number of 3060-0787.

The Commission is authorized under the Communications Act of 1934, as amended, to collect the personal information requested in this Form. If we believe there may be a violation or potential violation of a statute or a Commission regulation, rule, or order, your FCC Form 478 may be referred to the Federal, state, or local agency responsible for investigating, prosecuting, enforcing, or implementing the statute, rule, regulation, or order. In certain cases, the information in your FCC Form 478 may be disclosed to the Department of Justice, court, or other adjudicative body when (a) the Commission; (b) any employee of the Commission; or (c) the United States government, is a party to a proceeding before the body or has an interest in the proceeding.

If you do not provide the information requested on the FCC Form 478, the Commission may consider you in violation of Section 64.1180 of the Commission's rules. 47 C.F.R. § 64.1180.

The foregoing Notice is required by the Privacy Act of 1974, P.L. 93-579, December 31, 1974, 5 U.S.C. § 552(a)(e)(3), and the Paperwork Reduction Act of 1995, P.L. No. 104-13, 44 U.S.C. §§ 3501, *et seq.*

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I. Introduction

As required under Section 258 of the Communications Act of 1934, as amended, the Commission has adopted rules to eliminate the illegal practice of “slamming,” the unauthorized change in a subscriber’s selection of a provider of telephone exchange service and/or telephone toll service. These rules will improve the carrier change process for consumers and carriers, while making it more difficult for unscrupulous carriers to perpetrate slams. The information collected in this Telecommunications Slamming Complaint Reporting Form will enable the Commission to identify, as soon as possible, the carriers that repeatedly initiate unauthorized changes, and to take prompt investigative action to compel them to stop slamming.

II. Filing Requirements and General Instructions

A. Who Must File.

All providers of telephone exchange and/or telephone toll service within the United States, with very limited exceptions, must file a Telecommunications Slamming Complaint Reporting Form. For this purpose, the United States is defined as the contiguous United States, Alaska, Hawaii, American Samoa, Baker Island, Guam, Howland Island, Jarvis Island, Johnston Atoll, Kingman Reef, Midway Island, Navassa Island, the Northern Mariana Islands, Palmyra, Puerto Rico, the U.S. Virgin Islands, and Wake Island.

For purposes of determining whether an entity provides telephone exchange and/or telephone toll service, please note that the term “telephone exchange service” means “(A) service within a telephone exchange, or within a connected system of telephone exchanges within the same exchange area operated to furnish to subscribers intercommunicating service of the character ordinarily furnished by a single exchange, and which is covered by the exchange service charge, or (B) comparable service provided through a system of

switches, transmission equipment, or other facilities (or combination thereof) by which a subscriber can originate and terminate a telecommunications service.”¹ The term “telephone toll service” means “telephone service between stations in different exchange areas for which there is made a separate charge not included in contracts with subscribers for exchange service.”² For purposes of completing and filing the Telecommunications Slamming Complaint Reporting Form, the terms “telephone exchange and/or telephone toll service” include, but are not limited to, the following types of services: competitive access/competitive local exchange services; incumbent local exchange services, interexchange services; wide area telecommunications services (WATS); subscriber toll-free services; 900 services; and resale of such services.

Note also that entities must file FCC Form 478 if they offer telephone exchange and/or telephone toll service for a fee to the public even if only a narrow or limited class of users utilize the service. Included are entities that provide telephone exchange and/or telephone toll service to entities other than themselves for a fee on a private, contractual basis.

B. Filing by Legal Entity.

Each legal entity that provides telephone exchange and/or telephone toll service for a fee, including each affiliate or subsidiary of an entity, must complete and file separately a copy of FCC Form 478.

Entities that have distinct articles of incorporation are separate legal entities. Entities may not file “summary” worksheets for their affiliates or subsidiaries.

C. When and How to File.

Figure 1 provides the filing schedule and relevant addresses. If the filing date is a holiday (as defined in Section 1.4(e)(1) of the Commission's rules), forms are due the next business day.

Figure 1: Filing Schedule

When to File	What to File	How to File
February 18, 2003 (covering the period between July 1, 2002 and December 31, 2002)	Completed FCC Form 478-Feb	<ul style="list-style-type: none"> ·Via U.S. Mail: Federal Communications Commission Consumer & Governmental Affairs Bureau Reference Information Center FCC Form 478 Room CY-A257 445 12th Street, S.W. Washington, D.C. 20554 ·Via Facsimile: (202) 418-0037 ·Via E-mail: slamming478@fcc.gov

All information provided in FCC Form 478 should be neatly printed in ink or typed. Forms submitted on paper should contain an original officer signature in ink on Line (127).

¹ 47 U.S.C. § 153(47).

² 47 U.S.C. § 153(48).

D. Rounding of Numbers and Negative Numbers.

Counts of complaints. Reported counts of slamming complaints in Blocks 3 and 4 should be reported as accurate whole numbers with no rounding. Please enter "0" in any line for which actual counts were zero.

Negative numbers. Do not enter negative numbers for any data requested in this Form.

E. Option to File Revisions.

Line (131) provides check boxes to show whether the completed FCC Form 478 is the original filing or a revised filing. A carrier may file a revised FCC Form 478 if it discovers an error in the data that changes a previously reported count by more than 5%. For example, if a carrier reports that it received 100 slamming complaints during the reporting period, a new report should be filed if the carrier discovers that it actually received less than 95 complaints or more than 105 complaints during the relevant reporting period.

F. Compliance.

Carriers failing to file FCC Form 478 in a timely fashion, and carriers that file inaccurate or untruthful information, may be subject to the enforcement provisions of the Communications Act and any other applicable law.

G. Record Retention.

We encourage carriers to maintain all records regarding slamming complaints for at least **24 months** from the date on which you receive written, electronic, or oral contact by a consumer alleging that an unauthorized change in his/her preferred carrier was made by you or by another carrier.

III. Specific Instructions

A. Block 1: Filer Identification Information.

Line (101) -- Enter the "Filer 499 ID" number for the filing entity. This is a six-digit number starting with an 8 and is the same number used on FCC Form 499-A. Carriers can find their Filer 499 ID number by linking to <http://gullfoss2.fcc.gov/cib/form499/499a.cfm>. The Filer 499 ID number should be entered at the top of each page of FCC Form 478, on the cover letter, and on supporting documentation, if any.

Line (102) -- Enter the legal name of the filer as it appears on articles of incorporation and other legal documents. Each legal entity must file a separate FCC Form 478.

Line (103) -- Enter the complete mailing address of the corporate headquarters of the reporting entity.

Line (104) -- Enter the name(s) that the telephone exchange and/or telephone toll service provider is doing business as, if such name is different from that specified on Line (102).

Line (105) -- Enter the complete mailing address of the entity listed on Line (104), if the address is different from the address of its corporate headquarters.

Line (106) -- Enter the total number of end-user subscribers the reporting entity served as of the end of the current reporting period (*i.e.*, December 31). For purposes of completing this entry, the reporting entity may

use its current billing system to determine the total number of subscribers it served as of December 31, 2002. Please do not treat customers with 2 or more lines separately.

Line (107) -- If the information provided on the FCC Form 478 represents data collected for the entire reporting period (*i.e.*, July 1, 2002 through December 31, 2002), leave this Block blank. If the information provided on this Form does not represent data collected for the entire reporting period, please indicate the months for which the data applies in the space provided on the Form. In addition, please explain the reason(s) that the information does not cover the entire reporting period on Line 126.

B. Block 2: Contact Information.

Lines (108-111) -- Enter the name, telephone number, fax number, and e-mail address of the person who completed this FCC Form 478. This should be a person who can provide clarification, additional information, and, if necessary, serve as the first point of contact in the event that the Commission should choose to verify or audit information provided in the Telecommunications Slamming Complaint Reporting Form.

C. Block 3: Slamming Complaints Received and Resolved.

For purposes of completing this Telecommunications Slamming Complaint Reporting Form, the term “complaint” means an allegation of slamming (*i.e.*, an unauthorized change in the consumer’s preferred carrier), whether received from a consumer directly, through another carrier, or through the relevant governmental agency.³ **In Block 3, please count complaints on a per-consumer basis, rather than a per-line basis. If another methodology is used, an explanation of such methodology, and why it was used, should be attached.**

Line (112) -- Some classes of carriers may not receive any slamming complaints during a reporting period. If the reporting entity had no unresolved slamming complaints for any prior reporting period, and received no slamming complaints between July 1 and December 31, 2002, check the certification box on the right hand side of this line and skip to Block 5. Please note that a slamming complaint is considered “resolved” when it is no longer active or pending, has been closed out by the carrier, and the consumer is satisfied with the outcome of his/her complaint. A slamming complaint is considered “unresolved” when no action has been taken on the complaint, or a determination has not been reached by the carrier, or the consumer is not satisfied with the outcome of his/her complaint. If the consumer has invoked the slamming complaint process detailed in the Commission’s rules and has forwarded his/her complaint to the relevant governmental agency for handling and the governmental agency has acted, the complaint will not be considered resolved until the carrier has notified the relevant governmental agency and provided evidence that the carrier has fulfilled its obligations under the rules.

Line (113) -- Enter the number of slamming complaints that the reporting entity was unable to resolve as of June 30, 2002. If the reporting entity resolved all of the slamming complaints it received as of June 30, 2002, enter “0.” Please note that a slamming complaint is considered “resolved” when it is no longer active or pending, has been closed out by the carrier, and the consumer is satisfied with the outcome of his/her complaint. A slamming complaint is considered “unresolved” when no action has been taken on the complaint, or a determination has not been reached by the carrier, or the consumer is not satisfied with the outcome of his/her complaint. If the consumer has invoked the slamming complaint process detailed in the Commission’s rules and has forwarded his/her complaint to the relevant governmental agency for handling and the governmental agency has acted, the complaint will not be considered resolved until the carrier has

³ 47 C.F.R. § 64.1100(g).

notified the relevant governmental agency and provided evidence that the carrier has fulfilled its obligations under the rules.

Line (114) -- Enter the number of slamming complaints that the reporting entity received between July 1 and December 31 of the reporting year. Please note that a slamming complaint is considered "received" by the reporting entity when the consumer has directly notified the reporting entity on paper, electronically, or orally, or when a consumer's complaint has been forwarded to the reporting entity by another carrier or the relevant governmental agency. Complaints are classified by when they are actually received by the carrier, not when the slam was alleged to have occurred.

Line (115) -- Enter the number of slamming complaints that the reporting entity resolved between July 1 and December 31 of the reporting year. Please note that a slamming complaint is considered "resolved" when it is no longer active or pending, has been closed out by the carrier, and the consumer is satisfied with the outcome of his/her complaint. A slamming complaint is considered "unresolved" when no action has been taken on the complaint, or a determination has not been reached by the carrier, or the consumer is not satisfied with the outcome of his/her complaint. If the consumer has invoked the slamming complaint process detailed in the Commission's rules and has forwarded his/her complaint to the relevant governmental agency for handling and the governmental agency has acted, the complaint will not be considered resolved until the carrier has notified the relevant governmental agency and provided evidence that the carrier has fulfilled its obligations under the rules.

Line (116) -- Of the number reported on Line 115, enter the number of slamming complaints that the reporting entity investigated between July 1 and December 31 of the reporting year. Please note that a slamming complaint is considered to have been "investigated" by the carrier when the reporting entity has made a systematic inquiry into the consumer's allegation that the reporting entity has changed his/her preferred carrier without his/her permission. This number should also include complaints that were forwarded to the reporting entity by the relevant governmental agency.

Line (117) -- Of the number reported on Line 115, enter the number of slamming complaints that proved to be valid complaints. A slamming complaint is considered to be valid when the reporting entity determines, after analyzing the evidence provided by the consumer and/or considering any arguments raised by the consumer, that a change in the consumer's preferred carrier occurred without his/her permission. A slamming complaint is also considered valid when the relevant governmental agency has determined that an unauthorized change has occurred.

Line (118) -- Of the number reported on Line 115, enter the number of slamming complaints that the reporting entity resolved directly with consumers. This should include complaints received by the carrier from consumers or through another carrier that the carrier was able to resolve directly with consumers. This should not include complaints that the consumer initially, or ultimately, filed under the Commission's rules with the relevant governmental agency. The fact that a carrier directly resolved a slamming complaint with a consumer does not necessarily constitute an admission by the carrier that the complaint was valid.

Line (119) -- Enter the number of slamming complaints that the reporting entity was unable to resolve as of December 31 of the reporting year. This should be the sum of the entry on Line 113 plus the entry on Line 114 minus the entry on Line 115. If the reporting entity resolved all of the slamming complaints it received between July 1 and December 31 of the reporting year, as well as all of the complaints listed on Line 113, enter "0."

D. Block 4: Slamming Complaints by Carrier.

This Block is to be completed by carriers that provide wireline and/or fixed wireless local exchange service to end-user subscribers. Please note that fixed local services connect a specific point to one or more other points in a relatively small geographic area. These services can be provided using either wireline or fixed wireless technologies and can be used for either local exchange service, private communications, or access to toll services. If the principal telecommunications activity of your entity falls into any of the following categories, please complete this Block: (1) a competitive access provider or competitive local exchange carrier providing local exchange services, data lines or telecommunications services that link customers with interexchange facilities, local exchange networks, or other customers; (2) an incumbent local exchange carrier (*i.e.*, a carrier that was at one time franchised as a monopoly service provider), providing local exchange service; or (3) a local reseller providing local exchange or fixed telecommunications services by reselling services of other carriers. If the reporting entity does not fall into any of these categories, leave Lines (119-124) blank and skip to Block 5.

Lines (120 - 125) -- Reporting entities required to complete this Block should enter the names of the carriers against which the slamming complaints received between July 1 and December 31 were directed and the number of slamming complaints against such carrier. Please note that a slamming complaint is considered “received” by the reporting entity when the consumer has directly notified the reporting entity on paper, electronically, or orally, or when a consumer’s complaint has been forwarded to the reporting entity by another carrier or the relevant governmental agency. Complaints are classified by when they are actually received by the carrier, not when the slam was alleged to have occurred. Also note that, for purposes of completing this Block, an “affiliate” is an entity that (directly or indirectly) owns or controls, is owned or controlled by, or is under common ownership or control with, another entity. *See* 47 U.S.C. § 153(1). If additional space is needed for this purpose, place the legal name of the carrier, the Filer 499 ID, and the date at the top of each sheet. **As in Block 3, complaints should be counted on a per-consumer basis. If another methodology is used, an explanation of such methodology, and why it was used, should be attached.**

E. Block 5: Certification.

Line (126) -- Carriers are encouraged to provide any additional information that will assist the Commission in understanding information filed on the Telecommunications Slamming Complaint Reporting Form or in developing policies to reduce slamming. If additional space is needed for this purpose, place the legal name of the carrier, the Filer 499 ID, and the date at the top of each sheet.

Lines (127-130) -- An officer of the reporting entity must examine the data provided in the Telecommunications Slamming Complaint Reporting Form and certify that the information provided therein is accurate. An officer is a person who occupies a position specified in the corporate bylaws (or partnership agreement). Typically, this person would be president, vice president for operations, vice president for finance, comptroller, treasurer, or a comparable position. If the reporting entity is a sole proprietorship, the owner must sign the certification. Forms submitted on paper should contain an original signature in ink on Line (127).

Line (131) -- Indicate whether this filing is an original filing or a revised filing. *See* Section II-E above.

IV. Reminders.

Each legal entity must file separately.

Carriers that had no unresolved slamming complaints as of June 30, 2002, *and* received no new slamming complaints between July 1, 2002 and December 31, 2002 may check the box on Line (112) and skip the balance of Blocks 3 and 4.

Provide data for all lines that apply. Insert a "0" if that is the correct entry.

The reporting form must be signed by an officer of the reporting entity. An officer is a person who occupies a position specified in the corporate bylaws (or partnership agreement), and would typically be president, vice president for operations, vice president for finance, comptroller, treasurer, or a comparable position.

If you have questions about the FCC Form 478 or its instructions, you may contact:

Consumer & Governmental Affairs Bureau
Reference Information Center (202) 418-0270

- FEDERAL COMMUNICATIONS COMMISSION -