

FCC Settles Slamming Case with Unusual Remedies

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Slamming cases are a [rarity](#) these days, but this settlement is noteworthy not because it involves slamming, but because of the unusual remedies the FCC required in its consent decree.

The case involves two Notices of Apparent Liability issued to companies now under common ownership, [Horizon Telecom, Inc.](#) and [Reduced Rate Long Distance, LLC](#). In *Horizon*, the Commission proposed a fine of \$5,084,000 for slamming. In *Reduced Rate*, the Commission proposed a fine of \$8,000 for failing to respond to two informal consumer complaints. Both NALs were issued in 2008. Yesterday, the Enforcement Bureau released a [consent decree](#) settling the two cases.

What is so unusual about the settlement?

- For starters, the settlement amount is only \$53,000. This is a significant reduction from the over \$5 million in fines proposed against the two companies. (Though not quite [this significant](#).) The Order notes that the payment "is reduced from the proposed NAL amounts based upon their demonstrated inability to pay."
- Second, Horizon, which had sold its customer base to Reduced Rate in 2007, agreed never to provide telecommunications services again. Not since the Fletcher Companies in 1997 have I seen a telecommunications carrier barred from the market.
- Third, Reduced Rate's compliance plan requires outside counsel review of its materials. The consent decree states that Reduced Rate "shall submit [its Policy Manual, sales scripts, TPV scripts and other marketing materials] to legal counsel of its own designation for review and editing ..." The order further requires that such counsel "shall have experience with federal telecommunications and consumer protection laws, including the law relating to fraudulent, deceptive, unconscionable, and unfair acts or practices." To our knowledge, this is the first time the FCC has ever required a regulated entity to obtain counsel.
- Finally, although not unprecedented, the consent decree requires Horizon and Reduced Rate to self-report non-compliance with the consent decree within 30 days. Such self-reporting obligations have appeared in a few consent decrees in the past year or so (though not in the [Verizon and Verizon Wireless consent decrees](#) last month). It's not quite a trend, but it is something worth monitoring in the future. (That's what we're here for).