



THE COMMONWEALTH OF MASSACHUSETTS

**DEPARTMENT OF
TELECOMMUNICATIONS and CABLE**

DEVAL L. PATRICK
GOVERNOR

TIMOTHY P. MURRAY
LIEUTENANT GOVERNOR

ONE SOUTH STATION
BOSTON, MA 02110
(617) 305-3500

MICHAEL A. ISENBERG
ACTING COMMISSIONER

May 9, 2007

Elisa Rosenberg
d/b/a Twice is Nice
644 Washington Street
Norwood, MA 02062

Via Certified Mail and First Class Mail

Re: Notice of Formal Hearing for Slamming Complaint
Docket No.: D.T.C. 07-SL-4
Telephone Number(s) at Issue: **781-762-8490**

Dear Ms. Rosenberg:

The Department of Telecommunications and Cable ("Department"), formerly the Department of Telecommunications and Energy, has received your written response challenging the third party verification recording submitted to us by Spectrotel, Inc., d/b/a ONE Touch Communications ("Company"). The Department has assigned Andrea Saia as the Hearing Officer for the above-referenced matter. Please note that the docket number for this case is D.T.C. 07-SL-4 and should be referred to in all communications with the Department. Under M.G.L. c. 93, § 110(i), (j), the Department is required to hold a hearing to determine whether your original telecommunications provider was switched without proper authorization.

The hearing is scheduled for **THURSDAY, MAY 24, 2007 at 1:00 p.m.**, and will be held at the Department's offices at One South Station, Boston, Massachusetts. Please be advised that the Department's decision will be reached based on the information and evidence presented at the hearing. You must, therefore, come prepared with any papers or documents you wish to be considered and you must state your entire original complaint clearly for consideration by the Department. If any party fails to appear, the Department may issue a decision against the party failing to appear and/or dismiss the case.

You will have the opportunity to question any witnesses the Company presents and the Company's attorney will have the right to question you. A court stenographer will record

everything that is said at the hearing and a transcript will be prepared and kept on file at the Department. The Company will be represented by legal counsel.

Pursuant to the Department's Order in Western Massachusetts Electric Company, D.T.E. 01-36/02-02 (2003), all businesses appearing as parties in Department proceedings must be represented by counsel. However, as a business complainant in a slamming case, you may petition to appear without counsel prior to the scheduled hearing. The petition of a business complainant to appear without counsel must include an acknowledgment that the business complainant understands that appearing without counsel entails procedural risk, not the least of which is that any communications made by the business complainant to its non-lawyer representative would not enjoy the protection of the attorney-client privilege. Moreover, the Department cannot compensate for other deficiencies in representation that may arise from a business complainant's choice to appear without legal counsel in slamming hearings. Commonwealth Learning Center, D.T.E. 03-04-31, at 8-10 (2004).

If you dispute the Company's evidence, it is imperative that you attend the hearing. If you decide to resolve the matter with the Company prior to the hearing or to withdraw your complaint for any reason, please submit a letter to that effect to the Department. It is important to note that while companies found to have conducted an unauthorized switch of a consumer's telecommunications carrier may be fined in accordance with the provisions of G.L. c. 93, § 112(c), this will only occur after a determination that an unauthorized switch has occurred.

Also, consistent with 47 C.F.R. §§ 64.1140, 64.1160, if the Department determines after hearing that a slam has occurred, and you have not paid the bill of the slamming carrier, you will be absolved from paying any carrier for service for up to 30 days after being slammed. You will be required to pay any charges for service beyond 30 days to the authorized carrier, but at the authorized carrier's rates, not the slamming carrier's rates. 47 C.F.R. § 64.1140. In addition, if the Department determines after hearing that a slam has occurred and you have paid the bill of the slamming carrier, the slamming carrier must pay the authorized carrier 150 percent of the charges received from you. Out of this amount, the authorized carrier will reimburse you 50 percent of the charges you paid. 47 C.F.R. § 64.1170.

