

STATE OF NORTH DAKOTA

PUBLIC SERVICE COMMISSION

**Public Service Commission
Communications Network Billing, Inc.
Ex Parte Cease & Desist**

Case No. PU-06-373

EX PARTE MOTION FOR CEASE AND DESIST ORDER

Public Service Commission staff (staff) files this Ex parte Motion for Cease and Desist Order against Communications Network Billing, Inc. requesting that the Commission issue an order to require Communications Network Billing, Inc. to immediately cease and desist the entity's marketing activities involving the unauthorized change of telecommunications service providers within the State of North Dakota.

On August 22, 2006, Scott Macintosh, President for Qwest Corporation (Qwest) in North Dakota, contacted the Public Service Commission (Commission) by telephone and e-mail to advise that a person named Susan Stanley had attempted to change Montana-Dakota Utilities Company's (MDU's) long distance service to Communications Network Billing, Inc.

Scott Macintosh attached to his e-mail recordings of telephone conversations between an MDU employee, an employee of a verification company and Susan Stanley. In the recordings, Susan Stanley claims to be a supervisor with Qwest. She states that there was a power outage that resulted in incorrect billing charges and that she needs to reinstate MDU back to Communications Network Billing Incorporated for intrastate and interstate long distance calls for an overcharge to be credited back. She said she had prior approval from MDU accounts payable to speak with someone on the main call center line. She gave instructions to the MDU employee on how to respond to questions from the verification company. She said to respond yes to three questions and the only time to say no is when the verification company asks if there are any additional phone lines.

Communications Network Billing, Inc. was issued a Certificate of Registration by the Commission on December 31, 2003, Case No. PU-2973-03-691 to resell interexchange telecommunications services in North Dakota. A new section 49-03.1-09 to the North Dakota Century Code was enacted by the Legislature effective August 1, 2005 concerning the registration of non-incumbent telecommunications companies. By a September 27, 2005 memorandum, the Commission informed all North Dakota non-incumbent telecommunications companies, including companies that had already obtained certificates of public convenience and necessity or registration certificates, that they must register using the Commission's new Telecommunications Company Electronic Registration Process. The memorandum was mailed to Communications

Network Billing, Inc. and was posted to the Commission's web page. Communications Network Billing, Inc. has not registered using the electronic registration process.

Under N.D.C.C. § 49-21-01(19) a telecommunications company means a person engaged in the furnishing of telecommunications service within North Dakota. Under N.D.C.C. 49-21-01(20) telecommunications service is the offering for hire of telecommunications facilities, or transmitting for hire telecommunications by means of such facilities whether by wire, radio, lightwave, or other means.

The Commission is authorized under N.D.C.C. § 49-21-02.4(1) to enforce the provisions of title 47, Code of Federal Regulations, part 64, subpart k which prohibits the unauthorized change of a subscribers selection of a provider of telecommunications service. N.D.C.C. § 49-21-02.4(2) prohibits the unauthorized change of an intrastate telecommunications provider. N.D.C.C. § 49-21-02.4(3) provides the Commission with authority to issue a cease and desist order without prior notice against a telecommunications company that the Commission has reason to believe is in violation of N.D.C.C. § 49-21-02.4 or title 47, Code of Federal Regulations, part 64, subpart k.

Unless this motion is granted, telecommunications subscribers may suffer immediate economic loss, damage or injury as a result of the actions of Communications Network Billing, Inc.

Staff requests that the Commission issue an Ex parte Cease and Desist Order against Communications Network Billing, Inc., as authorized by N.D.C.C. § 49-21-02.4 to immediately cease and desist the entity's marketing activities involving the unauthorized change of telecommunications service providers within the State of North Dakota. Staff further requests that the Commission issue to Communications Network Billing, Inc. a notice of opportunity to be heard on the cease and desist order within fifteen days of the issuance or the order.

Dated this 25th day of August, 2006.

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