

**Scott, Sandi L.**

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**From:** Binek, William W.  
**Sent:** Monday, December 04, 2006 5:02 PM  
**To:** prregulatory@comcast.net  
**Cc:** -Grp-PSC Commissioners; -Grp-PSC Public Utilities; -Grp-PSC Legal  
**Subject:** Re:Communications Network Billing Cease and Desist Order and Complaint, Case Nos. PU-06-373 and PU-06-378

To: Pamela S. Rieck  
Regulatory Affairs Director  
Communications Network Billing, Inc.

I received and docketed your letter dated December 1, 2006 which I received via facsimile on December 1, 2006. You attached a letter dated September 1, 2006 that you state was faxed to the Commission. As I stated to you in our telephone conversation on December 1, 2006, the Commission did not receive that document either by mail or facsimile. Even if it had been received, it does not, in my opinion, suffice as an answer to the Commission's Complaint or a response to the Commission's Cease and Desist Order.

With regard to the Cease and Desist Order, all that Communications Network Billing, Inc. states is that it has taken immediate action to cease all marketing activities in North Dakota, and that it has conducted a thorough investigation of the matter. The Cease and Desist Order and a Notice of Opportunity for Hearing on the Cease and Desist Order were served by certified mail on August 25, 2006 on Communications Network Billing, Inc., and on TCS Corporate Services, Inc., its registered agent in North Dakota Inc. The return receipts show that service was accepted by both entities on August 28, 2006. No request for hearing on the Cease and Desist Order was received by the Commission.

With regard to the Complaint, service was made by certified mail on August 25, 2006, and service was accepted on August 28, 2006. You state that the September 1, 2006 letter was faxed to the Commission, but as stated previously, the document was not received by the Commission. You have provided no evidence showing that the document was actually faxed to the Commission. Even if the letter had been received by the Commission, it does not respond to the allegations contained in the Complaint. There are numerous allegations in the Complaint. The complaint alleges that Communications Network Billing, Inc conducted illegal marketing activities to obtain the unauthorized change of telecommunications service providers, and that it failed to register with the Commission as a telecommunications company under N.D.C.C. § 49-03.1-09. The letter states that the company has done a customer search and was unable to locate an account for Montana-Dakota Utilities Company (MDU), that it does not tolerate slamming and does not condone misrepresentations of any kind, and that it will be conducting an internal investigation, but does not specifically deny that the slamming attempt occurred. There would not be an account for MDU because the slamming attempt was unsuccessful.

The Notice of Default that accompanied the Default Order that was served by the Commission advises that the Default Order has been issued by the Commission, and that under N.D.C.C. § 28-32-30(2) Communications Network Billing, Inc may file a written motion requesting that the default order be vacated and state the grounds relied upon for the motion.

I will put this matter on the Commission's Administrative Agenda for its meeting on December 6<sup>th</sup> for discussion.

Please call me if you have any questions. My phone number is 701-328-4088.