

STATE OF NORTH DAKOTA
PUBLIC SERVICE COMMISSION

Public Service Commission,

Case No. PU-06-378

Complainant,

vs.

Communications Network Billing, Inc.

Respondent.

COMPLAINT

The Public Service Commission's Staff, (Staff) for its complaint against the Respondent, Communications Network Billing, Inc., alleges and shows the following:

I.

Communications Network Billing, Inc., 895 Dove Street, 3rd Floor, Newport Beach, California 92660-2941, is operating as a telecommunications reseller within the State of North Dakota.

II.

Communications Network Billing, Inc. is registered with the Secretary of State to do business as a foreign corporation in North Dakota.

III.

Communications Network Billing, Inc. has been conducting marketing activities to obtain the unauthorized change of telecommunications service providers within the State of North Dakota.

IV.

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.

V.

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.

VI.

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.

VII.

On August 25, 2005, the Public Service Commission staff (staff) filed an 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.

VIII.

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.

IX.

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.

X.

Communications Network Billing, Inc. is in violation of N.D.C.C. § 49-21-02.4 for conducting marketing activities to obtain the unauthorized change of telecommunications service providers within the State of North Dakota.

XI.

Communications Network Billing, Inc. is in violation of N.D.C.C. Chapter 49-03.1-09 for failing to apply to register with the Commission as a telecommunications company as required by that section.

XII.

Pursuant to N.D.C.C. § 28-32-21(e), an answer to this complaint must be filed with the Commission within twenty (20) days after service of the complaint, or the Commission may deem the complaint to be admitted. If the Respondent, Communications Network Billing, Inc., fails to answer as required within twenty days after service of the complaint, the Commission may enter an order in default as the facts and the law may warrant.

Wherefore, the Commission Staff seeks the following relief:

Relief Sought

1. That Communications Network Billing, Inc. be found in violation of N.D.C.C. §§ 49-21-02.4 and 51-15-02 for conducting marketing activities to obtain the unauthorized change of telecommunications service providers within the State of North Dakota.
2. That Communications Network Billing, Inc. be found in violation of N.D.C.C. Chapter 49-03.1-09 for failing to register with the Commission as a telecommunications company under that section.
2. That the Commission impose sanctions or penalties as appropriate under the circumstances and as allowed by N.D.C.C. § 49-07-01.1, which may include a civil penalty of up to \$5,000.
3. For such other relief that the Commission finds just and proper.

Dated this **25th day of August, 2006.**

PUBLIC SERVICE COMMISSION STAFF

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