

February 2004. Mr. May stated he requested a full refund from AT&T, but AT&T's policy was to refund only six months of charges.

Board staff initially described the alleged violation as an unauthorized change in service provider, or a "slamming" complaint, and identified the matter as C-06-16. On February 1, 2006, staff forwarded the complaint to AT&T and Qwest for response. The Board received Qwest's response on February 7, 2006. Qwest stated its records show that Mr. May's wife switched long distance service to Qwest on February 13, 2004, after that date all long distance calls were billed through Qwest, and AT&T continued to bill monthly service charges. Qwest stated that in response to the customer's inquiry, AT&T recouped five months of charges from August 2005 to January 2006. AT&T did not respond to the complaint.

On February 24, 2006, Board staff issued a proposed resolution finding AT&T in violation of the Board's rules because it failed to respond to the complaint. Staff directed AT&T to credit all toll charges to Mr. May's account and to close the account.

On February 28, 2006, the Board received a response to the complaint from AT&T's slam resolution center. AT&T stated its records show that Mr. May's long distance and local toll services were previously subscribed to AT&T from December 17, 2001, to February 20, 2004. AT&T explained that the customer's AT&T billing account remained active because it appeared that the customer's services were still with AT&T after the customer's local exchange carrier sent AT&T a transaction code status indicator advising AT&T that the customer's billing

information had changed. AT&T stated that on January 23, 2006, in response to a customer-initiated complaint, AT&T's customer service representative told Mr. May that a credit of \$103.05 had been issued to the account. AT&T stated that because there was no evidence of an unauthorized switch on this account, it had not reimbursed any switching fees. AT&T asked that the complaint be reclassified as a billing complaint. AT&T stated it had forwarded the complaint to its Executive Appeals office and asked that the Board allow that office to have the full allotment of time to respond.

The Board received a copy of a letter dated March 10, 2006, from AT&T to Mr. May. AT&T indicates that it continued to bill Mr. May's account because AT&T did not receive proper notice of cancellation from the local telephone company. AT&T stated that it issued another credit of \$166.81 for the September 2004 through July 2005 billings.

In its March 10, 2006, petition, Consumer Advocate indicates that the proposed resolution should be expanded to clarify that companies cannot escape civil penalties by ignoring allegations of violation. Consumer Advocate asserts a civil penalty is necessary to deter future violations. Consumer Advocate refers to AT&T's late response and argues that the circumstances under which the miscommunication alleged by AT&T occurred merit further investigation.

The Board has reviewed the record to date and finds there are reasonable grounds to warrant further investigation of this matter. The Board will grant

Consumer Advocate's petition for proceeding to consider a civil penalty but will delay establishing a procedural schedule to allow AT&T to respond to Consumer Advocate's petition.

IT IS THEREFORE ORDERED:

1. The "Petition for Proceeding to Consider Civil Penalty" filed by the Consumer Advocate Division of the Department of Justice on March 10, 2006, is granted. File C-06-16 is docketed for formal proceeding, identified as Docket No. FCU-06-27.

2. AT&T Communications of the Midwest, Inc., is directed to file a response to Consumer Advocate's petition within 30 days of the date of this order.

UTILITIES BOARD

/s/ John R. Norris

/s/ Diane Munns

ATTEST:

/s/ Judi K. Cooper
Executive Secretary

/s/ Curtis W. Stamp

Dated at Des Moines, Iowa, this 18th day of April, 2006.