

STATE OF IOWA
DEPARTMENT OF COMMERCE
UTILITIES BOARD

<p>IN RE:</p> <p>REVISIONS TO RULES PROHIBITING UNAUTHORIZED CHANGES IN TELECOMMUNICATIONS SERVICE [199 IAC 22]</p>	<p>DOCKET NO. RMU-06-8</p>
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ORDER COMMENCING RULE MAKING

(Issued September 15, 2006)

Pursuant to Iowa Code §§ 17A.4, 476.1, 476.2, and 476.103, the Utilities Board (Board) proposes to adopt the amendment to 199 IAC 22.23(2)"a"(5) as described in the "Notice of Intended Action" attached hereto and incorporated by reference. The proposed amendment would specify what types of call records will be adequate, in the absence of contrary evidence, to verify a customer's request for certain changes in service that result in additional charges. This rule making has been identified as Docket No. RMU-06-8.

Unauthorized changes in a customer's telecommunications service are prohibited by statute and Board rule. See Iowa Code § 476.103 and 199 IAC 22.23(2). One type of unauthorized change in service is "cramming," defined at 199 IAC 22.23(1) as the "addition . . . of a product or service for which a separate charge is made to a . . . customer's account without the verified consent of the affected customer." Under the existing rule, one way a telecommunications

carrier can establish a valid customer request for a change in service is by maintaining sufficient internal records. Those records must include, at a minimum, the date and time of the customer's request and adequate verification of the identification of the person requesting the change in service. The burden of showing that the records are adequate to verify the customer's request for the change in service is on the carrier. See 199 IAC 22.23(2)"a"(5).

In several recent informal complaint proceedings before the Board, customers have disputed charges on their local telephone bills for specific calls the customers deny making or accepting. These include calls allegedly dialed by the customer and collect calls allegedly accepted by the customer. In response to those complaints, some carriers have submitted call records as evidence that the customer made or accepted the call. The call records submitted for the Board's consideration have varied widely in their form and content. Some have been nearly indecipherable, while others appear to establish that a lengthy call took place as shown on the bill. The carriers argue that a lengthy call indicates the customer intentionally made or accepted the call and therefore authorized the resulting charges.

Because it is becoming more common for carriers to rely on call records to defend allegations of cramming, the Board recognizes the need to formally consider several issues relating to call records and to determine the appropriate weight to be given the records in cramming cases while balancing the interests of telecommunications carriers and consumers. This rule making will help the Board

and the public to better understand the process by which call records are produced; the potential for error in that process; what information can be derived from call records; the extent to which call records can show that a disputed call actually took place, was authorized, or accepted; and what weight call records should be given in cramming cases. The Board invites comment on all of these issues relating to internal call records maintained by telecommunications carriers, and on any other issues presented by the proposed rules.

The amendment proposes to add a provision to 199 IAC 22.23(2)"a"(5) explaining that where the additional charge at issue is for one or more specific telephone calls, a carrier can shift the burden regarding the change in service by submitting internal records showing the origin, date, time, destination, and duration of the calls, and any other data the carrier relies on to show the calls were made or accepted by the customer, along with an explanation of the records and data. If such records are submitted, the burden would then be on any party contesting the carrier's call records to establish that the calls were unauthorized.

IT IS THEREFORE ORDERED:

1. A rule making proceeding identified as Docket No. RMU-06-8 is commenced for purposes of receiving comments on the proposed amendment in the notice attached hereto and incorporated by reference in this order.

2. The Executive Secretary is directed to submit for publication in the Iowa Administrative Bulletin a notice in the form attached to and incorporated by reference in 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 15th day of September 2006.

UTILITIES DIVISION

Notice of Intended Action

Pursuant to Iowa Code sections 17A.4, 476.1, 476.2, and 476.103, the Utilities Board (Board) gives notice that on September 15, 2006, the Board issued an order in Docket No. RMU-06-8, In Re: Revisions to Rules Prohibiting Unauthorized Changes in Telecommunications Service [199 IAC 22], "Order Commencing Rule Making."

The proposed amendment adds a provision to current rules prohibiting unauthorized changes in telecommunications service to specify what types of call records submitted by a telecommunications carrier may be adequate to verify a customer's request for certain changes in service resulting in additional charges to a customer's account. The order commencing rule making contains a more thorough discussion of the background and reasons for this proposed rule making. The order is available on the Board's Web site at www.state.ia.us/iub.

Pursuant to Iowa Code section 17A.4(1)"a" and "b," any interested person may file a written statement of position pertaining to the proposed amendments. The statement must be filed on or before October 31, 2006, by filing an original and ten copies in a form substantially complying with 199 IAC 2.2(2). All written statements should clearly state the author's name and address and should make specific reference to this docket. All communications should be directed to the

Executive Secretary, Iowa Utilities Board, 350 Maple Street, Des Moines, Iowa 50319-0069.

A public hearing to present oral comments on the proposed amendments will be held at 10 a.m. on November 21, 2006, in the Board's hearing room at the address listed above. Persons with disabilities who require assistive services or devices to observe or participate should contact the Utilities Board at (515) 281-5256 in advance of the scheduled date to request that appropriate arrangements be made.

This amendment is intended to implement Iowa Code sections 17A.4, 476.1, 476.2, and 476.103.

The following amendment is proposed.

Item 1. Amend subparagraph 22.23(2)"a"(5) as follows:

(5) For other changes in service resulting in additional charges to existing accounts only, a service provider shall establish a valid customer request for the change in service through maintenance of sufficient internal records. At a minimum, any such internal records must include the date and time of the customer's request and adequate verification under the circumstances of the identification of the person requesting the change in service. Any of the three verification methods in 22.23(2)"a"(1) to (3) will also be acceptable. The burden will be on the telecommunications carrier to show that its internal records are adequate to verify the customer's request for the change in service. Where the additional charge is for one or more specific telephone calls, a carrier can shift this burden by submitting internal records showing the origin, date, time,

destination, and duration of the calls, and any other data the carrier relies on to show the calls were made or accepted by the customer, along with an explanation of the records and data. The burden will then be on any party contesting the carrier's call records to establish that the calls were unauthorized.

September 15, 2006

/s/ John R. Norris
John R. Norris
Chairman