

STATE OF IOWA
DEPARTMENT OF COMMERCE
UTILITIES BOARD

<p>IN RE:</p> <p>CHRIS HUSTON, ON BEHALF OF MARY HUSTON,</p> <p style="text-align:center">Complainant,</p> <p style="text-align:center">vs.</p> <p>U.S. TELECOM LONG DISTANCE, INC.,</p> <p style="text-align:center">Respondent.</p>	<p style="text-align:center">DOCKET NO. C-07-141</p>
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ORDER DENYING REQUEST FOR FORMAL PROCEEDING

(Issued May 22, 2007)

BACKGROUND

On March 7, 2007, Chris Huston, on behalf of his mother, Mary Huston, filed a complaint against U.S. Telecom Long Distance. Inc. (UST), alleging an unauthorized change of long distance service. Mr. Huston stated that in December of 2006, he contacted Qwest Corporation (Qwest) to put his mother's telephone service on hiatus because she was under the care of a hospice. Mr. Huston stated that Qwest informed him that his mother's long distance service was provided by UST and that Mr. Huston would have to contact UST directly to cancel her long distance service. Mr. Huston stated that he was unaware that his mother had changed her long distance carrier.

Mr. Huston stated that he called UST on March 7, 2007, and during that conversation, UST played a third-party verification (TPV) recording for him that UST claimed was Ms. Huston verifying her information and requesting a change in her long distance service. Mr. Huston stated that he did not believe the voice on the TPV was his mother.

On March 7, 2007, Board Staff forwarded the complaint to Qwest and UST for a response. On March 13, 2007, staff received a response from Qwest. Qwest stated that an electronic order was received on June 9, 2005, changing the interstate long distance to carrier code 0444, which belongs to Global Crossing, while the intrastate service remained with Qwest. Qwest stated that on January 20, 2007, Mr. Huston called to have both services disconnected. Qwest also stated that UST billed monthly service fee charges back to the date the service was changed. Qwest stated that it had the charges, totaling \$85.26 back to March 2006, recouped back to UST for credit that should appear on Ms. Huston's final bill. Qwest also noted that Ms. Huston's service was disconnected on March 13, 2007.

On March 21, 2007, staff received a letter from UST stating that on June 7, 2005, UST received a request from Ms. Huston agreeing to switch her long distance service to UST pursuant to a telemarketing order that was verified by an independent third-party verification company. UST stated that the change of service was authorized over the telephone by Ms. Huston and verification of this authorization was recorded pursuant to current regulations. UST stated that it also sent Ms.

Huston a copy of a general service agreement. UST stated that on March 6, 2007, Mr. Huston contacted customer service and requested his mother's service with UST be cancelled. Furthermore, UST stated that the January 31, February 28, and March 31, 2007, fees had not appeared on his mother's local phone company bill yet and, depending on the timing of the local phone company billing cycle, his mother might receive three to four more bills with charges.

UST stated that it received the complaint on March 19, 2007; on March 20, 2007, UST stated it contacted Mr. Huston to resolve the complaint. UST stated that its representative explained to Mr. Huston the services his mother had ordered on June 7, 2005, and also played the third-party verification for him.

On April 12, 2007, staff issued a proposed resolution that no slamming or unauthorized change of service had occurred. On April 18, 2007, Mr. Huston filed a petition for formal proceeding¹ requesting a refund of the total amount of charges that had been paid by Ms. Huston.

DISCUSSION

In the present case, Mr. Huston has requested a formal proceeding on behalf of his mother, Mary Huston. Iowa Code § 476.3(1) states that "[t]he complainant or the public utility . . . may petition the board to initiate a formal proceeding which petition shall be granted if the board determines that there is any reasonable ground

¹In his April 18, 2007, letter, Mr. Huston states: "I would like to officially appeal this decision." The Board has interpreted this to mean that Mr. Huston would like a formal proceeding, as that is the next logical step in this action.

for investigating the complaint." As the Board has said before, § 476.3 requires that the Board grant a petition for a formal proceeding any time the Board determines there is any reasonable ground for doing so. Thus, the Board only denies a petition for formal proceedings when there are no reasonable grounds for further investigation.

Mr. Huston claims that UST changed his mother's long distance service without authorization, specifically by signing her up for services she did not request. Mr. Huston asserts that prior to her death he had conversations with his mother and that she did not know her long distance service had been changed. UST asserts that it received a request from Ms. Huston agreeing to switch her long distance service to UST pursuant to a telemarketing order that was verified by an independent third-party verification company.

On March 21, 2007, Board staff received a copy of the third-party verification from UST. In the verification Ms. Huston confirms her mailing address, date of birth, and when asked if she was authorizing the change of her long distance provider for her telephone number she replied "yes."

Subrule 199 IAC 22.23(2) provides that

- a. No service provider shall submit a preferred carrier change order or other change in service order to another service provider unless and until the change has first been confirmed in accordance with one of the following procedures . . .

. . .

(4) . . . 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.

The informal record also shows that Mr. Huston received a refund from UST for one year of service totaling \$113.46. Based on the information received from UST during the informal review, the detailed TPV, and the fact that UST has refunded one year of charges, the Board believes that the circumstances in this case do not provide any reasonable grounds for further investigation of this complaint and, therefore, the Board will not initiate a formal proceeding in this matter.

ORDERING CLAUSE

IT IS THEREFORE ORDERED:

The request for formal proceeding filed by Chris Huston, on behalf of his mother, Mary Huston, on April 18, 2007, is denied as discussed in this order.

UTILITIES BOARD

/s/ John R. Norris

/s/ Curtis W. Stamp

ATTEST:

/s/ Judi K. Cooper
Executive Secretary

/s/ Krista K. Tanner

Dated at Des Moines, Iowa, this 22nd day of May, 2007.