

STATE OF IOWA
DEPARTMENT OF COMMERCE
UTILITIES BOARD

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| <p>IN RE:</p> <p>HEIDI VOSS,</p> <p style="padding-left: 100px;">Complainant,</p> <p style="text-align:center">vs.</p> <p>UNI-TEL COMMUNICATIONS,</p> <p style="padding-left: 100px;">Respondent.</p> | <p>DOCKET NO. C-07-228</p> |
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ORDER DENYING PETITION FOR FORMAL PROCEEDING

(Issued December 10, 2007)

INFORMAL COMPLAINT PROCEEDING

On September 18, 2007, pursuant to Iowa Code §§ 476.3 and 476.103, Heidi Voss, a consumer, filed with the Utilities Board (Board) a petition for a formal complaint proceeding for an alleged slamming violation committed by Uni-Tel Communications (Uni-Tel). Based upon the record assembled in the informal complaint proceeding, the events to date can be summarized as follows:

On August 20, 2007, Ms. Voss filed a complaint with the Board regarding an alleged unauthorized change of telephone service that occurred in 2002. Ms. Voss claims that in 2002 Uni-Tel changed her long distance provider without her consent. Ms. Voss said that in 2002 she repeatedly told Uni-Tel that she had not authorized a change of her telephone service. Ms. Voss also said that in 2002 she had a

preferred carrier, Iowa Telecommunications Services, Inc., d/b/a Iowa Telecom (Iowa Telecom), and that the disputed charges were for an account acquired through fraud by her ex-husband and his girlfriend. Ms. Voss states that the account was sent to collection for unpaid charges totaling \$153.38.

Board staff identified the matter as C-07-228 and, pursuant to Board rules, on August 21, 2007, forwarded the complaint to Uni-Tel and Iowa Telecom. On August 31, 2007, Board staff received a response from Iowa Telecom. Iowa Telecom states that on April 29, 2002, Ms. Voss contacted Iowa Telecom to re-establish a telephone account. Iowa Telecom states that Ms. Voss made several changes to the carrier between the time she re-established her account and December 2003. Iowa Telecom further states that on January 21, 2004, Ms. Voss called Iowa Telecom to report she was allegedly slammed in August 2003 and to add a preferred interexchange carrier (PIC) freeze to the line. At that time, Iowa Telecom said Uni-Tel was listed as Ms. Voss's long distance carrier. Iowa Telecom states that on July 30, 2004, Ms. Voss requested a change in her carrier to Iowa Telecom and Uni-Tel was notified of the cancellation of service on September 1, 2004.

On August 31, 2007, Board staff received a response from Uni-Tel. Along with its response, Uni-Tel sent a copy of Ms. Voss's customer record, which was created automatically from an on-line agreement, according to Uni-Tel; a copy of the e-mail sent to Ms. Voss confirming her on-line order; a copy of an e-mail sent from Ms. Voss

to Uni-Tel customer service requesting a credit of some late fees; and a copy of Ms. Voss's account ledger.

Uni-Tel states that on December 3, 2003, it received an order for long distance telephone service from Heidi Voss. Uni-Tel also states that since switching Ms. Voss to its service, Ms. Voss has sent an e-mail requesting a credit of her switching fee and has been in contact with the customer service department nine different times. Uni-Tel also states that Ms. Voss never complained to its customer service representative that her service was switched without her authorization. Uni-Tel also states that in June 2007, after her account had been sent to a third party collections agency, Ms. Voss called Uni-Tel's collections department and claimed her account had experienced fraudulent calls. Uni-Tel also states that Ms. Voss told its collections department that she had filed for bankruptcy and that the debt had been discharged. Uni-Tel states that it requested a copy of the bankruptcy filing so that it could discharge the debt; however, Ms. Voss never sent Uni-Tel a copy of the alleged bankruptcy filing.

Board staff forwarded a copy of Uni-Tel's response to Ms. Voss for response. On September 4, 2007, Ms. Voss responded stating that Uni-Tel did not provide any documents with her signature. Ms. Voss also states that she never sent an e-mail to Uni-Tel customer service for credit, the e-mail address given by Uni-Tel has never been her e-mail address, and that she did not learn about the Uni-Tel charges until she saw it on her credit report in May 2007. She also states that she only called Uni-

Tel to request a form to file a fraud report, but she never received the form. Last, Ms. Voss states that someone must have been pretending to be her if Uni-Tel actually contacted each of the times it alleged.

On September 6, 2007, Board staff issued a proposed resolution. Board staff found that Ms. Voss's service was not changed to Uni-Tel until December 3, 2003, not 2002 as Ms. Voss alleged. Board staff also found that an online order for long distance service with Uni-Tel had been completed on December 3, 2003, and that an e-mail confirming the order was sent to the e-mail address provided by the person who submitted the order. Based on Board staff's investigation, Board staff established that the e-mail account in question belonged to Ms. Voss. Since Ms. Voss claimed the e-mail address submitted by Uni-Tel was never hers, Board staff states that it contacted the Internet service provider (ISP) that provided the e-mail account to which Uni-Tel sent the confirmation e-mail. Board staff learned the e-mail address was assigned to Ms. Voss between March 4, 2003, and April 4, 2005, and that the account was now closed. Board staff states that the ISP confirmed Ms. Voss's name, address, telephone number, and social security number. Board staff found that this information matched the information allegedly submitted to Uni-Tel for service. Board staff also confirmed the information provided by the ISP with information on file with Iowa Telecom, and that bills for Uni-Tel's service were sent to Ms. Voss's home address each month and payments were made via check, credit cards, and money orders. Board staff concluded that Ms. Voss signed up for long

distance service with Uni-Tel in December 2003 and that no slamming violation had occurred.

On September 17, 2007, Ms. Voss sent Board staff a request for formal proceeding. Ms. Voss states that Board staff presumed that she set up the account because of an e-mail address and because the bill allegedly came to her address. She also says that her ex-husband is more than likely responsible for setting up the account because he had set up other accounts and an e-mail account with the ISP. Ms. Voss further states that the company has not provided a signed document or voice recording and previously her ex-husband's girlfriend stole her identity and, as a consequence of that incident, she put a PIC freeze on her telephone account.

On September 20, 2007, Uni-Tel responded to Ms. Voss's request for a formal proceeding. Uni-Tel also submitted two different copies of money order payments with Ms. Voss's signature. Uni-Tel states that Ms. Voss has attempted in many ways to have Uni-Tel dismiss this debt, but the evidence demonstrates Ms. Voss contacted Uni-Tel for service and paid for that service from time to time.

On September 21, 2007, Ms. Voss responded to Uni-Tel's reply to her request for formal proceeding. Ms. Voss states that the money orders sent by Uni-Tel were not sent by her and were forged by her ex-husband. She says that her ex-husband used tracing paper and copied her signature and then wrote over the signature with a pen. Ms. Voss also said that she does not use money orders and if she needs a verified payment, she gets a certified bank draft. In support of this statement, Ms.

Voss submitted her bank statement showing June 2004 and some July 2004 transactions. Ms. Voss also states that she has no intention of paying Uni-Tel even if the Board finds in favor of Uni-Tel.

On October 5, 2007, Consumer Advocate submitted a response to Ms. Voss's request for formal proceeding. Consumer Advocate does not explicitly request a formal proceeding to further investigate or consider civil penalties; however, Consumer Advocate states that it wishes the Board to consider that Ms. Voss submitted a letter on August 14, 2004, to Uni-Tel that stated that she did not authorize the services provided by Uni-Tel; an e-mail confirming a change of service order does not mean the customer accepted the service; and last, that the proposed resolution was incorrect. Consumer Advocate says that it obtained Ms. Voss' PIC freeze form from Iowa Telecom and the form that shows that Ms. Voss authorized a PIC freeze of the line to Iowa Telecom. Consumer Advocate also states that Iowa Telecom has stated in an e-mail to Consumer Advocate that Iowa Telecom was unable to ascertain how Ms. Voss received its form because she was not an Iowa Telecom long distance customer. Consequently since she was not an Iowa Telecom customer, when Ms. Voss sent the form in for a PIC freeze, a PIC freeze was placed on the current carrier of her account, which at the time was Uni-Tel. Consumer Advocate further states that Ms. Voss advised Consumer Advocate that the signature on the Iowa Telecom PIC form is hers and she intended the line be frozen to the long distance company she thought she had, not Uni-Tel.

DISCUSSION

Iowa Code § 476.3(1) states "[t]he complainant or 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 for investigating the complaint." The Board has previously determined that § 476.3 should be read together with Iowa Code § 476.103,¹ the statute prohibiting unauthorized changes in service. 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 petitions for formal proceedings when there are no reasonable grounds for further investigation. The Board has reviewed the record and concludes there are no reasonable grounds for further investigation of this matter.

The Board concludes that there are no reasonable grounds to grant a formal proceeding to further investigate this matter, because, as it appears in the informal record, on December 3, 2003, an order was submitted for long distance telephone service from Uni-Tel for Ms. Voss's account.

Uni-Tel has submitted the application allegedly filled out by Ms. Voss, containing Ms. Voss's name, address, telephone number, social security number, e-mail address, and the date and time of the order; a confirmation e-mail of the services allegedly ordered by Ms. Voss; and an e-mail allegedly from Ms. Voss disputing late fees from June of 2004. Uni-Tel also provided Board staff with two

¹ Office of Consumer Advocate v. MCI Communications of Iowa, Inc., and Frontier Communications of Iowa, "Motion for Reconsideration," Docket No. C-06-281 (March 8, 2007).

different money orders with what is allegedly Ms. Voss's signature. The Board takes note of Ms. Voss's claim of fraud by her ex-husband or his girlfriend; however, if the statements made by Ms. Voss are correct and her ex-husband or his girlfriend or someone else set up the Uni-Tel long distance account in her name, it is not an unauthorized change of service by Uni-Tel. According to Uni-Tel, it received a seemingly valid order for service, and other correspondence regarding the account, and acted accordingly. In her September 5 and 18 letters, Ms. Voss submits nothing to the Board but her allegations that her ex-husband set up the account, which is a matter outside the Board's jurisdiction.

Furthermore, in Ms. Voss's September 17, 2007, letter, she states that she did not put a PIC on her line and that it was forged; however, Consumer Advocate states that Ms. Voss informed Consumer Advocate that she signed and submitted the PIC form to Iowa Telecom. Also, Ms. Voss claims that she did not know about Uni-Tel being her long distance carrier until May 2007, when she called the collections agency handling the account; however, in her September 24, 2007, correspondence, Ms. Voss states that she had correspondence with Uni-Tel in August of 2004 when she wrote a letter disputing the charges. These are only two of many inconsistencies noted by Board staff in statements made by Ms. Voss in support of her contention that Uni-Tel changed her long distance service provider without her authorization.

Consequently, the Board does not believe the service provided by Uni-Tel was unauthorized (from Uni-Tel's point of view), and Ms. Voss's failure to pay, her dispute

of the bill, and eventual collection efforts by Uni-Tel fall in the category of normal billing disputes, not unauthorized changes of service under Iowa Code § 476.103 and 199 IAC 22.23. Therefore, the Board concludes there are not any reasonable grounds for further investigating this complaint and will deny Ms. Voss's petition for formal proceeding.

ORDERING CLAUSE

IT IS THEREFORE ORDERED:

The "Petition for Formal Proceeding" filed by Heidi Voss on September 18, 2007, is denied as discussed in this order.

UTILITIES BOARD

/s/ John R. Norris

/s/ Krista K. Tanner

ATTEST:

/s/ Judi K. Cooper
Executive Secretary

/s/ Darrell Hanson

Dated at Des Moines, Iowa, this 10th day of December, 2007.