

**BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF SOUTH DAKOTA**

IN THE MATTER OF THE COMPLAINT FILED)	FINDINGS OF FACT AND
BY SUSAN R. SORBEL, RAPID CITY, SOUTH)	CONCLUSIONS OF LAW;
DAKOTA, AGAINST BUSINESS OPTIONS, INC.)	ORDER REQUIRING LIST OF
REGARDING UNAUTHORIZED SWITCHING OF)	CUSTOMERS; NOTICE OF
SERVICES)	ENTRY OF ORDER
)	CT00-054

On March 23, 2000, the Public Utilities Commission (Commission) received a complaint filed by Susan R. Sorbel, Rapid City, South Dakota (Complainant), against Business Options, Inc. (Business Options) regarding unauthorized switching of services.

On March 24, 2000, the complaint was faxed to Business Options. Pursuant to ARSD 20:10:01:09, Business Options was notified that it must satisfy the complaint or file an answer in writing with the Commission by April 13, 2000. Business Options failed to file an answer or satisfy the complaint.

By order dated April 28, 2000, a hearing was set for May 11, 2000, beginning at 1:30 o'clock P.M., in Room 412 of the State Capitol Building, 500 E. Capitol, Pierre, South Dakota. The hearing was held as scheduled. The issue at the hearing was whether Business Options committed an unlawful or unreasonable act, rate, practice or omission and, if so, what relief would be appropriate. No representatives of Business Options appeared at the hearing.

At the close of the hearing, the Commission voted unanimously to order Business Options to pay the Complainant \$1000.00 and to issue the Complainant an additional credit of \$67.94. The Commission further voted unanimously to order Business Options to produce a list of its South Dakota customers to the Commission.

Based on the evidence of record, the Commission makes the following findings of fact and conclusions of law:

FINDINGS OF FACT

1. On March 23, 2000, the Commission received a complaint filed by the Complainant against Business Options regarding unauthorized switching of services.
2. On March 24, 2000, the complaint was faxed to Business Options. Pursuant to ARSD 20:10:01:09, Business Options was notified that it must satisfy the complaint or file an answer in writing with the Commission by April 13, 2000. Business Options failed to file an answer or satisfy the complaint.
3. A hearing was held as scheduled. No representative of Business Options appeared at the hearing. Tr. at 4. The Order For and Notice of Hearing was mailed to Business Options on April 28, 2000. Tr. at 15. The order was not returned to the Commission as undeliverable. *Id.*
4. The Complainant testified that her long distance carrier is McLeod. Tr. at 6. On her U S WEST bill dated February 13, 2000, she noticed that the bill contained charges from HOLD Billing Services for long distance telephone services. Tr. at 5-6; Exhibit 1. The per minute charges were higher than those charged by her authorized carrier, McLeod. Tr. at 6; Exhibit 1.

5. Charlene Lund, complaint investigator and analyst for the Commission, testified that the Complainant was switched to Business Options, a reseller of Sprint. Tr. at 18-19. HOLD Billing Services is a billing agent for Business Options. Tr. at 19. The Complainant was billed \$179.69 by Business Options. Tr. at 21; Exhibit 5. Business Options issued credits of \$111.75, leaving an unresolved amount of \$67.94. *Id.*
6. Ms. Lund further testified that the Commission has received more than two complaints of unauthorized switching against Business Options within a 30 day period. Tr. at 20; Exhibit 4.
7. The Complainant did not authorize Business Options as her long distance carrier. Tr. at 11.
8. The Commission finds that the Complainant did not authorize Business Options as her telecommunications carrier.
9. The Commission finds that Business Options changed the Complainant's telecommunications carrier without her authorization. The Commission finds Business Options committed unlawful acts. The Commission finds that Business Options shall pay the Complainant \$1000.00 as prescribed by SDCL 49-31-93. The Commission further finds that Business Options shall issue credits to the customer in the amount of \$67.94 pursuant to SDCL 49-31-93.
10. The Commission finds that it has received more than two complaints within 30 days regarding violations of SDCL 49-31-89. The Commission finds that Business Options shall provide the Commission with a complete list of its current subscribers, including the subscribers' billing addresses within 30 days of the date of this order.

CONCLUSIONS OF LAW

1. The Commission finds that it has jurisdiction over this matter pursuant to SDCL Chapters 1-26, 49-13, including 49-13-1 through 49-13-14, inclusive, and SDCL Chapter 49-31, including 49-31-3, 49-31-7, 49-31-7.1, 49-31-7.2, 49-31-7.3, 49-31-7.4, 49-31-10, 49-31-11, 49-31-38, 49-31-38.1, 49-31-38.2, 49-31-38.3, 49-31-89 through 49-31-97, inclusive, and ARSD Chapters 20:10:01 and 20:10:34.
2. SDCL 49-31-93 provides as follows:

A subscriber is not liable for any charges imposed by a telecommunications company that initiates a telecommunications carrier change without authorization from the subscriber or for the billing of unauthorized products or services. In addition, the telecommunications company that initiates the unauthorized change or the billing of unauthorized products or services shall pay to the subscriber one thousand dollars.
3. SDCL 49-31-95 provides that "[i]f the commission receives more than two complaints within thirty days regarding violations of § 49-31-89, the commission may require the telecommunications company responsible for the violations to provide the commission with a complete list of its current subscribers, including the subscribers' billing addresses."
4. The Commission finds Business Options initiated a telecommunications carrier change without authorization from the Complainant. The Commission finds that Business Options shall pay the Complainant the \$1000.00 as prescribed by SDCL 49-31-93. The Commission further finds that Business Options shall issue credits or refunds to the customer in the amount of \$67.94 pursuant to SDCL 49-31-93.

5. The Commission finds that Business Options shall provide the Commission with a complete list of its current subscribers, including the subscribers' billing addresses within 30 days of the date of this order.

It is therefore

ORDERED, that Business Options shall pay the Complainant the \$1000.00 as prescribed by SDCL 49-31-93; and it is

FURTHER ORDERED, that Business Options shall issue credits to the customer in the amount of \$67.94 pursuant to SDCL 49-31-93; and it is

FURTHER ORDERED, that Business Options shall provide the Commission with a complete list of its current subscribers, including the subscribers' billing addresses within 30 days of the date of this order.

NOTICE OF ENTRY OF ORDER

PLEASE TAKE NOTICE that this Order was duly entered on the 6th day of June, 2000. Pursuant to SDCL 1-26-32, this Order will take effect 10 days after the date of receipt or failure to accept delivery of the decision by the parties.

Dated at Pierre, South Dakota, this 6th day of June, 2000.

CERTIFICATE OF SERVICE	
The undersigned hereby certifies that this document has been served today upon all parties of record in this docket, as listed on the docket service list, by facsimile or by first class mail, in properly addressed envelopes, with charges prepaid thereon.	
By:	<u>Delaine Kelbo</u>
Date:	<u>6/6/00</u>
(OFFICIAL SEAL)	

BY ORDER OF THE COMMISSION:

James A. Burg
JAMES A. BURG, Chairman

Pam Nelson
PAM NELSON, Commissioner

Laska Schoenfelder
LASKA SCHOENFELDER, Commissioner

