

MICROFILM DIVIDER

OMB/RECORDS MANAGEMENT DIVISION

SEN 2053 (2/85) 5M



ROLL NUMBER

DESCRIPTION

1214

2001 HOUSE FINANCE AND TAXATION

HB 1214

2001 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1214

House Finance and Taxation Committee

Conference Committee

Hearing Date January 22, 2001

Tape Number	Side A	Side B	Meter #
1		X	5,338

Committee Clerk Signature

Janice Stein

Minutes:

REP. AL CARLSON, CHAIRMAN Opened the hearing.

REP. BRYAN CLARK. Introduced the bill to try to correct a problem which came to his attention at the request of someone from his district. The gentleman had purchased a computer which provided free internet service. The computer had two numbers to dial to access the internet, there was a local number and a long distance number. What happened, when the computer would dial the local number, it would be busy, so it would go to the long distance number. This whole time, the user did not know this computer was dialing the long distance number. A T and T noticed there was unusual activity on this account, so they sent twelve notices to US West (now Qwest), about this activity. When the bill came in December, it was extremely high, he called to see what happened, as he did not know what was going on. They all told him, he was not their account and it wasn't their responsibility. This legislation is suppose to make someone accountable. It is a shame that we have to introduce legislation to make

someone accountable for their responsibilities. This bill allows the phone companies to set their own policies to decide what is unusual high use, and then notify the customer.

REP. NICHOLAS Stated that some of the phone companies are already doing that, as he got a call from a phone company stating there were seventeen thousand minutes on his card, he thought all companies did that.

MIKE TROTTIER, FARGO, Testified in support of the bill as he was the customer with the high computer account. It was the first time I ever had a computer, so I didn't know what was going on. I talked to the FCC, the Department of Commerce, the Public Service Commissioner, the Attorney General, there is no where for the average consumer to go. They were under no obligation to let me know that my bill was getting this high. It doesn't make any sense to me, when AT & T knows when the bill gets to four hundred forty dollars. One lady I talked to when I was dealing with this, said she gets four calls a week on this. I am not alone in this. Most people don't go to the steps I went to get this taken care of.

REP. CARLSON When you bought your computer, what came with the computer?

MIKE TROTTIER, I took the computer over from my sister, she was going through a divorce and couldn't afford the payments, so I took it over. She had one hundred fifty three hours of internet service, the number that I was dialing I assumed was the number they had set aside, no matter where you called from, that was how I understood it, until I got my phone bill. I know I am partly responsible for it. I told AT & T and US West I would pay the four hundred and forty dollars or five hundred dollars when my second notice came out, because I am responsible for that number on my computer. There is no reason that the bill should have gotten to eighteen

hundred dollars. By the time the number was off of my computer, I can't remember what the last date of the billing cycle was.

REP. CARLSON Read the statement Mr. Trottier had received. When you got that five hundred dollar bill you could have called what their policy was.

MIKE TROTTIER If I was aware of the problem, if I am not aware of the problem how do I resolve it. There is one thousand dollars I could have saved, if they would have sent a notice in the mail, I wouldn't be here before you today.

REP. DROVDAL Apparently AT & T or U S West has a policy

MIKE TROTTIER They informed me they are not my local company so they were not responsible.

REP. DROVDAL Apparently they do have a policy to notify the name carrier of a termination that they have already sent for excessive uses, so what you are asking is that instead of notifying U S West, they should notify the end customer.

MIKE TROTTIER Or notify both of us. If they can send a notice one way, why can't they send it another way. They own the phone line, they can pick up the phone and call me.

REP. CARLSON Wouldn't you want to know about this policy before this happened?

MIKE TROTTIER I don't know how to answer that.

REP. CLARK Stated that currently there is no policy to notify the customer.

MIKE TROTTIER In ten years of having a phone, I have not spent one thousand dollars. Two months before this bill, my bill was \$38.01. This bill went to twenty three hundred dollars before I got through with this.

REP. CLARK Asked how long did it take to get the problem resolved?

MIKE TROTTIER Three months and about two hundred hours of my time. Every night I tried to get to someone, I went as far as going on Channel 4 News in Fargo, just to let people know, because I didn't have a clue as to what happened. I got out of the bill, it was taken care of because of how long I fought them. No one should have to fight them like that.

REP. WINRICH This bill is dated December 1, when did you receive the bill?

MIKE TROTTIER December 6, 2000

REP. WINRICH Do you know when AT & T notified U S West of unusual high usage?

MIKE TROTTIER Showed a statement which displayed date of notice and amount. See attached copy.

TOM KELSCH, ATTORNEY REPRESENTING A T & T, Testified in opposition of the bill because it is a mandate. See attached written testimony.

REP. CLARK There must have been a system in place when the first bill was sent, is that correct?

TOM KELSCH Yes, it was sent to the carrier.

REP. DROYDAL What kind of difficulty would AT & T run into instead of sending the notice to US West, send the notice instead to the consumer?

TOM KELSCH They have done that on some occasions, I have been informed, and in some instances, they get remarks back from customers wanting to know why they are monitoring them.

REP. LLOYD The only unreasonable that I think could have occurred here, is that he received ten notices of unusually high charges, how many notices would it take before AT & T decided there must be a problem that U S West has not taken care of?

TOM KELSCH I don't know that answer, I can try to find out. I don't think there is any particular policy.

REP. LLOYD Why would you send ten notices, why not respond on the first one.

TOM KELSCH Really, he is not our customer, for long distance he is, but not as far as the connection. As I understand, with the Gateway contract, you have two numbers, and if one number is busy, they will switch it. Obviously, he didn't read that part of the contract.

REP. LLOYD What type of communication does AT & T have with the provider like U S West, or Qwest?

TOM KELSCH They were giving notice in this particular case, but as I understand it, they do not have a policy where they are required to provide that kind of service.

REP. WINRICH I assume this particular case would have been caught under your usage monitoring.

TOM KELSCH This monitoring is done at random, two months later, it probably wouldn't have been noticed.

REP. WINRICH Your written testimony states that in certain cases, you have notified the customer, then it goes on to say that the notifications aren't always welcome by the customer. A moment ago, you indicated Mr. Trottler was not your customer.

TOM KELSCH He is our long distance customer.

REP. DROVDAL AT & T is a good corporation, I don't think anyone questions that and apparently, they have had this problem come up before, otherwise, they wouldn't have this random spiking. Does A T & T have any suggestions how we can deal with this?

TOM KELSCH First of all, in the definition, what should we do, unusual average, family average, what would you come up with, then would you take a percentage of it. The difficulty is ending up with a mandate to do it.

REP. CLARK Essentially, this bill allows you to set your own policy. You have tremendous latitude.

DAVID CROUTHERS, NORTH DAKOTA ASSOCIATION OF TELEPHONE

COOPERATIVES, Testified in opposition of the bill. See attached written testimony.

REP. LLOYD Why would they give ten notices and not notify the customer?

DAVID CROUTHERS We are talking about a relationship in Mr. Trotter's circumstance, which is a relationship between AT & T and U S West, I am not familiar how they do their business. If I had to guess, I would say computer letters out of the interchange at A T & T.

REP. LLOYD That relationship has been in existence since both companies were established in North Dakota, I would think there has to be some way that U S West would have responded to a customer.

DAVID CROUTHERS We have been with the independent companies in this state, U S West or Qwest, are distinct from ours, we work with a billing agent. Apparently, Qwest is the billing agent for A T & T, we don't do that in any way shape or form.

REP. CLARK You concluded your testimony by saying that requiring every interexchange company or billing agent to review the records of every single North Dakota would be a burden that would far exceed any conceivable benefit, I have to point out that this bill does not require you to monitor the account of every single customer, every single day. Basically, this legislation would require that if you have knowledge, in lines 10 and 11, of unusually high usage, you would

notify the customer. In this case, A T & T notified Qwest that this account was experiencing high activity. I am not exactly sure, where you are construing that this would require you to monitor every single account, every day.

DAVID CROUTERS Stated that in line 7, it begins with a directive that each telecommunications interexchange shall develop a policy. If, may be a qualifier, I would fear that they would expect an interexchange company to comply with the provisions of this law. I am not familiar with any language or any statute that this body passes that you construe, if, to mean, if we don't really want to participate in the legislature's statutes. It is obvious, one could set a three million dollar limit for unusually high usage, and never have to worry about this bill. We do take the work of this body seriously. There are many mandates and requirements and so we don't take that, if, to mean merely voluntary.

KENT BLICKENSDEFER, QWEST CORPORATION, Testified in opposition of the bill, See attached written testimony.

ILONA JEFFCOAT-SACCO, PUBLIC SERVICE COMMISSION Answered questions which the committee had. She stated that a Fargo to Bismarck call would be within the state's jurisdiction as intrastate. If the calls were interstate, then it would be a federal jurisdiction not a state jurisdiction.

MARILYN FOSS, MCI WORLDCOM, Testified in opposition of the bill, Stating that reviewing the bill, they did not understand the situation which prompted the bill was one of a customer engaging in voluntary uses of long distance usage and not understanding how this equipment operated. We were looking at this from the perspective where fraud was involved. It is important for you to know, that companies try to protect their customers against fraud. One of

the concerns we have with the bill, assuming that the companies were able to develop reasonable policies and did not, essentially, get themselves out of compliance with the law by establishing a threshold for unusual usage which made sure nobody would need a threshold. One of our concerns which hasn't been addressed is the concept that you disclose your threshold for unusually high usage to the public. That information should be proprietary. Once you make that public, you are actually encouraging, the public for using the system for fraudulent purposes to make unauthorized calls.

REP. SCHMIDT With the technology we have, isn't there a way to have the computer to beep to inform us

MARILYN FOSS I would simply note, if you simply want to address the problem, this is not a telephone issue, it is a computer issue. With respect to other technology for monitoring, I think there is technology out there that may possibly be able to do anything. There is technology whereby they can monitor every phone call in the United States. There is no privacy. That is an inappropriate exercise of legislative judgment to say that because, if you are not worried about cost, about an individual's situation, that it should be done.

With no further testimony, the hearing was closed.

COMMITTEE ACTION 1-23-01, Tape #2, Slide A, Meter # 5400

Some of the committee members related experiences that have happened in their own families regarding long distance phone calls and computer internet services. They felt there is some problem, but felt it would be hard to correct it with this bill.

Page 9

House Finance and Taxation Committee

Bill/Resolution Number HB 1214

Hearing Date January 22, 2001

REP. HERBEL Made a motion for a **DO NOT PASS.**

REP. RENNERFELDT Second the motion. **MOTION CARRIED.**

10 YES 4 NO 1 ABSENT

REP. GROSZ Was given the floor assignment.

