

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

CURTIS TV SERVICE AND)	
JASPER CURTIS)	
)	
COMPLAINANTS)	
)	
V.)	CASE NO. 2002-00476
)	
IDS TELECOM, LLC)	
)	
DEFENDANT)	

O R D E R

On December 11, 2002, Jasper Curtis, on behalf of Curtis TV Service, filed a complaint against IDS Telecom, LLC (IDS) alleging that IDS improperly switched (a/k/a slammed) his local telephone service without proper authorization and that IDS is incorrectly billing him. Mr. Curtis requests that IDS credit all charges and cease attempting to bill him for service.

IDS denies that it slammed Mr. Curtis s local telephone service and has provided a phone number by which to review a recording of Mr. Curtis allegedly giving consent to the switch. IDS also explains the reason for the alleged incorrect billing.

BACKGROUND

Prior to filing this formal complaint, Mr. Curtis contacted Commission Staff on January 22, 2001, alleging that his local service had been switched from Talk.com to IDS without his permission. Commission Staff then contacted IDS regarding the slamming

allegation, and IDS denied the allegation stating that it had the proper third-party verification authorizing the switch. IDS further denies the allegation of slamming in its answer to the case at bar and provides a phone number and instructions to follow to hear Mr. Curtis's verification.¹ IDS claims that Mr. Curtis's main concern was regarding a billing dispute, not that he was slammed. IDS alleges that Mr. Curtis wanted to switch back to his original carrier and IDS informed him that he needed to contact his carrier of choice to convert his services. IDS admits that its records erroneously indicated that Mr. Curtis switched his services from IDS and, therefore, did not continue to bill for services which, in fact, it continued to provide.

It appears from the record that Mr. Curtis never contacted another local service carrier and continued to receive local service from IDS. IDS, however, did not bill Mr. Curtis for this service until August 2002 when an internal audit of IDS revealed that Mr. Curtis had been receiving IDS service, but had not been billed for the service since January 21, 2001. Attached to IDS's answer is a LENS report from BellSouth Telecommunications, Inc. that indicates that IDS was Mr. Curtis's local service provider for the period in question. Commission Staff has also acquired a primary interexchange carrier history that also indicates Mr. Curtis had IDS service for the period in question. IDS is attempting to collect the unbilled service provided to Mr. Curtis from January 21, 2001 until November 19, 2002. IDS, however, will attempt to collect only for the service provided for the 12 months preceding November 19, 2002, when Mr. Curtis switched service providers.

¹ Call [REDACTED] enter account number [REDACTED], select option 1, and enter code # [REDACTED].

DISCUSSION

It appears from the record before the Commission that IDS is entitled to collect the charges that it seeks to collect. The information provided by the third-party verification indicated that Mr. Curtis knowingly acknowledged the change of carriers to IDS; thus, Mr. Curtis was properly switched to IDS services on November 10, 2000. KRS 278.535. Once upon IDS s system, Mr. Curtis is responsible for the services he received, whether billed or not. The record shows that Mr. Curtis was IDS s customer from November 10, 2000 until November 19, 2002. IDS s failure to issue bills from January 21, 2001 until November 19, 2002 does not prohibit collecting the unpaid amounts. KRS 278.225. A utility, in fact, must bill for services rendered. See KRS 278.170; see also Boone County Sand and Gravel v. Owen County Rural Electric Cooperative Corp., 779 S.W.2d 224 (Ky.App. 1989). Mr. Curtis admittedly received service from IDS from November 10, 2000 until November 19, 2002 and, thus, must pay for those services.

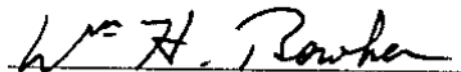
IT IS THEREFORE ORDERED that:

1. IDS may collect compensation from Mr. Curtis for the IDS service received from January 21, 2001 until November 19, 2002.
2. This complaint is dismissed with prejudice and is removed from the Commission s docket.

Done at Frankfort, Kentucky, this 22nd day of May, 2003.

By the Commission

ATTEST:


Deputy Executive Director