

➤ Hearing Records ... HR (bills and resolutions)

**** 07hr_sb0320_SC-SBEPWDTCPP_pt01**

**WISCONSIN STATE
LEGISLATURE COMMITTEE
HEARING RECORDS**

2007-08

(session year)

Senate

(Assembly, Senate or Joint)

**Committee on
Small Business,
Emergency
Preparedness,
Workforce
Development,
Technical Colleges &
Consumer Protection**

(SC-SBEPWDTCPP)

COMMITTEE NOTICES ...

➤ Committee Reports ... CR
**

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➤ Public Hearings ... PH
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**INFORMATION COLLECTED BY
COMMITTEE FOR AND AGAINST
PROPOSAL ...**

➤ Appointments ... Appt
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Name:

➤ Clearinghouse Rules ... CRule
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➤ Hearing Records ... HR (bills and resolutions)
**

(companion bill: _____)

➤ Miscellaneous ... Misc
**

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JULIE LASSA

STATE SENATOR

November 29, 2007

Senator Bob Wirch
Chairman, Senate Committee on Small Business
Room 317 East
State Capitol
P.O. Box 7882
Madison, WI 53707-7882

Dear Senator Wirch,

I am writing to request that a public hearing be held on Senate Bill 320 regarding commercial radio providers in the Senate Committee on Small Business.

Thank you for your attention to this matter. If you have any questions, comments or concerns please feel free to contact me at any time.

Sincerely,

A handwritten signature in black ink that reads 'Julie' in a cursive script.

JULIE LASSA
State Senator
24th Senate District





State of Wisconsin
Jim Doyle, Governor

Department of Agriculture, Trade and Consumer Protection
Rod Nilsestuen, Secretary

December 12, 2007

The Honorable Robert Wirch, Chair
Committee on Small Business, Emergency Preparedness,
Workforce Development, Technical Colleges and Consumer Protection

Re: SB 320 relating to refunds of overcharges by commercial mobile radio service providers.

Dear Senator Wirch,

Thank you for the opportunity to provide testimony on SB 320. The Department of Agriculture, Trade & Consumer Protection supports this legislation because it recognizes the legitimate expectation of persons owed a refund for overcharges on a billing statement.

The department has received numerous complaints from consumers where they have waited an unreasonably long time to get a refund or a credit on their "next" bill for charges the consumer is not responsible for – overcharges. Some consumers have waited through numerous billing cycles and have had to place numerous calls to "remind" the cell phone service provider that they are owed a refund. Some consumers have waited so long that they give up the refund because it is such a hassle to get what they are owed. SB 320 protects consumers from this hassle and demands the consumer get the refund they are entitled to.

SB 320 would also require cell phone providers to refund overcharges to all customer affected by an overcharge, not just the one customer who complains of an overcharge, once the service provider learns or reasonable becomes aware of the overcharge. This is a basic principle of consumer rights; in addition to being a reasonable business practice. Unfortunately, we know of situations where numerous customers are affected by an overcharge, but the cell phone provider doesn't refund/credit everyone affected; even though they know who the affected consumers are. The cell phone providers have only credited those consumers that have complained about the overcharge.

For these reasons we support SB 320 and thank you for the opportunity to testify.

Respectfully,

A handwritten signature in black ink, appearing to read "Janet Jenkins".

Janet Jenkins
Administrator
Division of Trade & Consumer Protection

Agriculture generates \$51.5 billion for Wisconsin





JULIE LASSA

STATE SENATOR

No
Date

Senate Bill 320 Testimony
Senate Committee on Small Business, Emergency Preparedness, Workforce Development,
Technical Colleges and Consumer Protection
Room 400 SE
11:00 a.m.

Chairman Wirch and Committee Members,

Thank you for the opportunity to provide testimony today on Senate Bill 320, the Cell phone Accountability and Liability Legislation (CALL).

I introduced CALL on behalf of my constituent who is here with us today, Dennis Goetsch. Dennis will describe his experiences in greater detail in a few moments, but simply put, after calling to dispute roaming charges on his cell phone bill, the customer service representative he spoke with explained that the company was aware that a technical problem had occurred with its tower so they would credit his account accordingly. Dennis then inquired about all of the other costumers who were overcharged, where he was then told that the company would not reimburse other customers unless they individually called to complain.

After expressing his disapproval with the company's policy through a letter, Dennis filed a complaint with the Department of Agriculture, Trade and Consumer Protection. DATCP issued a civil investigative demand (which is similar to a subpoena that permits DATCP to obtain information) to the company, asking for the names of customers incorrectly billed. As a result of the investigation, the company issued \$30,700 in credit to 3,601 customers.

By looking at the numbers, it is apparent that the charges did not amount to very much for each individual customer. Many customers likely did not even notice the additional charges, allowing the cell phone service provider to profit from its mistake. This type of practice is unacceptable for a multi-billion dollar industry and is why I have introduced CALL.

CALL encourages cell phone service providers to exercise corporate responsibility by requiring them to refund any amount they overcharge customers no later than the last day of the billing cycle following the billing cycle in which they are made aware of or should reasonably be aware of the overcharge. If the provider fails to refund the money within that time period, it is required to pay twice the amount that it overcharged. The bill also allows the DATCP or a district attorney to commence an action on behalf of the state to recover a forfeiture of not more than \$200 for the first violation and not more than \$500 for each subsequent violation. The bill also provides that a person who is injured by the company's failure to credit the overcharge may

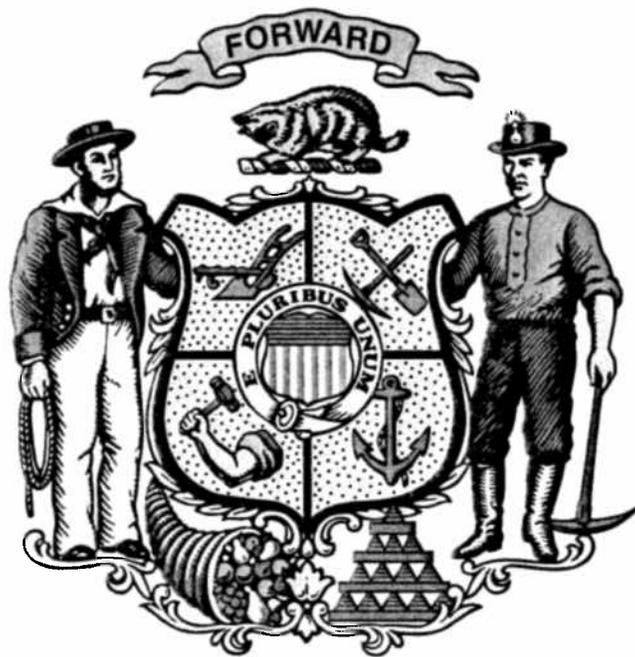
bring an action against the cell phone provider for temporary or permanent injunctive relief or for three times the amount of the amount of the overcharge, or \$200, whichever is greater, together with costs, including reasonable attorney's fees.

The purpose of the private cause of action is to serve as an incentive for the private bar to bring enforcement actions rather than just the state due to the fact that the DATCP has limited staff and the Department of Justice has limited attorneys. In addition, with more people keeping tabs on impermissible activity and taking action to stop it, businesses are more likely to follow the law.

We worked extensively with DATCP and Legislative Council in appropriately determining how a provider "should reasonably be aware" of the overcharge. This was a difficult task, given that we want to protect consumers but we do not want to hold the cell phone providers to an unattainable standard where they are taken to court for simple mistakes they never realized had occurred. We ultimately agreed upon the language that "it is presumed that a commercial mobile radio service provider should reasonably be aware of an overcharge unless the overcharge is an isolated incident not related to overcharges to other customers or repeated overcharges to the same customer." We use the word "presumed" because it gives the provider a chance to rebut the claim if it can show facts to support that it was an isolated error, but the language remains comprehensive enough to allow for proper enforcement.

Although I anticipate that cell phone providers will argue that these new regulations will cause them increased costs for investigating errors, the bill prohibits providers from imposing an additional charge upon a customer solely as a consequence of compliance with this requirement. The bottom line is that if providers make a mistake, they have the obligation to fix it. We know from Dennis' experience that the company knowingly did not refund money it overcharged.

By overcharging their consumers, cell phone providers are taking money that is not theirs. We do not know how many small overcharges have gone unnoticed by consumers thereby allowing providers to profit from their mistakes, but we do know that this multi-billion dollar industry can afford to do its job and return money to which it is not entitled.



4411 - 48th Street South
Wisconsin Rapids, WI 54494
August 12, 2004

Found In
SB 320
Folder

Mr. Eric Osborn
311-A Mall Drive
Appleton, WI 54915

Dear Mr. Osborn:

I have been an ALLTEL customer for approximately one and a half years. In this time I have never come close to using my allotted monthly minutes on my plan. According to my last two monthly bills I have gone well over my allotted time. Upon examination of these bills and after doing further investigation I have found ALLTEL has been knowingly over-billing their customers due to problems in its cellular and computer systems. I also understand ALLTEL has no intention of initiating corrections of these bills. I find this practice immoral, illegal, and appalling.

Due to my professional background in electrical power generation, I know there are very stiff penalties for companies knowingly participating in "white collar theft." I want to know what you and your company intend to do about this situation as it affects members of my family, friends, me, and many other customers.

I intend to wait until August 27, 2004, for your response. If I do not receive a satisfactory response by that date I intend to take further action(s) on this issue.

I look forward to hearing from you.

Sincerely,



Dennis M. Goetsch

ALTEL COMMUNICATIONS, INC

4600 W. College Avenue
Appleton, WI 54913
P. O. Box 8046, 54912-8046



August 30, 2004

Mr. Dennis M. Goetsch
4411 48th Street South
Wisconsin Rapids, WI 54494

Mr. Goetsch:

I apologize for the delay in my response, as I was not in receipt of this letter until today. After examining your previous 2 bills I have submitted adjustments from the 7/4 billing for \$3.60 (9 minutes @ \$0.40) and the 8/4 billing for \$13.20 (33 minutes @ \$0.40) for a total of \$16.80. This billing error was caused by the addition of voicemail capacity and did not effect every customer or every call to voicemail. As such we have dealt with this on a case by case basis and are correcting the errors on an individual basis.

Based upon my review of your account you could benefit from a new version of the Total Freedom Plan that was recently introduced. The new version of the plan would include the following features:

- 200 Anytime Minutes
- 1000 Night and Weekend Minutes
- 1000 Alltel Mobile to Mobile Minutes
- \$39.95 Monthly Access Charge

The primary difference from your current plan is that the Night and Weekend Minutes and Mobile to Mobile Minutes apply in the same area as your anytime minutes (All 50 states). This plan could have prevented a portion of your overage charges for the past 2 months. If you are interested in changing to this new version of the Total Freedom Plan please give me a call anytime at 920-740-9930.

Thank you for your time,

A handwritten signature in black ink, appearing to read "Eric Osborn". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Eric Osborn

Dear Department of Agriculture, Trade & Consumer Protection:

I am contacting you about an over billing problem I have had with ALLTEL Communications. I have been a cellular telephone user for several years and have never gone over my allotted monthly minutes. When I received my bills dated 7/04/2004 and 8/04/2004, and I supposedly used more than my allotted minutes, I began doing some investigating as to why this happened. I talked with an ALLTEL customer service/sales representative at the Wisconsin Rapids, WI office, and I was immediately told my bills were incorrect due to a problem that ALLTEL was having with their Waupaca, WI cellular tower. I was told that any call that this particular tower picked up was automatically and incorrectly call forwarded to the Iron Mountain, MI tower, and the call would automatically be billed as a peak time / call forwarded call no matter when or where it was placed. ALLTEL agreed to adjust my bill for these calls. I was told this problem was common knowledge to the employees of ALLTEL in this region. I began to examine these bills more carefully for the individual calls which were made and also found another problem generated by ALLTEL's cellular system. When a call is made to retrieve your voicemail it is shown as a call from your cellular number to your cellular number and is shown as a "voice retrieval" call. On these bills I had many of these calls from my cellular number to my cellular number that were not voice retrieval, and they were back-to-back-to-back-to-back calls. I obviously did not make these calls. The local ALLTEL office agreed that I did not make these calls and my bill was then again re-adjusted. To date my bills are now correct.

The reason I am contacting you with this complaint letter is that when I told the ALLTEL representatives at the local office and sent a letter to the regional manager in Appleton, WI, that if I was incorrectly over billed due to a problem that their system generated, then very likely all or a large population of their customers in the Central and Eastern Wisconsin region were also over billed. I asked them what ALLTEL was going to do to either alert their customers that their bills could be falsely high or to initiate a corrective action on the bills. I was told ALLTEL had no intention of initiating either and I was told I should consider changing to a different cellular plan. I told them I felt this way of doing business is considered "white collar theft" and I find it illegal, immoral and appalling. When a business charges a customer for services provided, it is the business's, not the customers, responsibility to assure the charges are correct.

I am asking nothing for myself with this letter as my bills have been individually corrected. I am asking that the appropriate agencies investigate this problem further. If they find there has been an over billing problem, then ALLTEL should have to correct all their customers bills, prove the bills have been corrected and ALLTEL should be penalized severely enough that ALLTEL will know that this way of doing business will not be tolerated.

I am including the letter I sent to the regional manager, his response, and my bills in the months where I was knowingly over billed. I have hi-lighted many of the calls where I was knowingly over billed.

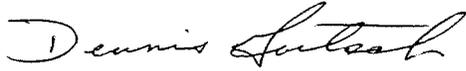
If you need to contact me I will gladly answer any of your questions and give you any information I can on this situation.

You may contact me at:

Dennis Goetsch
4411 48th St S
Wisconsin Rapids, WI 54494

(715) 423-7055 home
(715) 422-5419 work
(715) 570-6341 cell

Sincerely ,

A handwritten signature in cursive script that reads "Dennis Goetsch". The signature is written in black ink and is positioned below the typed name.

Dennis Goetsch

4/18/05

Hi Marsha:

As you requested during our telephone conversation on 4/18/05 about ALLTEL's knowingly over billing their customers, I am sending you a copy of a letter from Ms. Wendy Hickok to the FCC. This letter is in response to a complaint I also filed with the FCC. In her letter to the FCC, Ms.Hickok states "It is ALLTEL's practice to notify customers, via billing inserts, when we have prior knowledge of a major systems error impacting the billing statements of our customers." This statement is a lie.

When the problem occurred, I was told by an ALLTEL customer representative that this problem was common knowledge to all ALLTEL employees. This problem was allowed to exist for approximately one month, impacting two billing cycles. I asked the local office in Wisconsin Rapids and the regional manager in Appleton, Mr. Eric Osborn, to either correct the bills or place an insert in the next billing statement to alert their customers they may have been over billed. I was told they would not do that.

If ALLTEL would have been willing to include an insert, I would have considered it an appropriate corrective action, I would have considered the issue closed and would not have pursued it any further. ALLTEL feels it is ok to knowingly over bill their customers and to correct bills only if they get caught. This is fraud. It is my opinion ALLTEL should have to correct all of the bills of the affected customers, prove they corrected them and then be punished severely enough to realize that this type of business practice will not be tolerated.

Thank you for helping me with this matter. If you have any questions, please contact me via email at:

dennis.goetsch@mstc.edu

or by telephone at :

(715) 423-7055 Home

(715) 570-6341 Cell

(715) 422-5419 Work

Thank you

Dennis Goetsch



March 14, 2005

Ms. Martha Contee
Consumer Information Bureau
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

*Forwarded
to
MARSHA BUNG
4/19/05*

RE: Dennis Goetsch - IC 05-I0144201
4411 48th St. South
Wisconsin Rapids, WI 54494
6300441901

Ms. Contee:

I am in receipt of the complaint, regarding our customer listed above, dated 04.01.05. Mr. Goetsch states that he has experienced a billing issue, whereby he has been double billed for voicemail retrieval calls. Mr. Goetsch acknowledges that his billing issues have been corrected, but he has concerns regarding our general billing practices.

It is ALLTEL's practice to notify customers, via bill message inserts, when we have prior knowledge of a major systems error impacting the billing statements of our customers. The situation to which Mr. Goetsch refers involved calls being incorrectly routed through the Iron Mountain, WI tower due to an isolated routing error that we did not anticipate.

Although ALLTEL makes a concentrated effort to ensure that customers are billed correctly for the services they use, our customers can continue to review their billing statements to ensure the absence of any unforeseen billing issues. Our employees are empowered to correct and adjust any billing inaccuracies that are brought to our attention.

ALLTEL, we recognize that exceptional customer service is essential to our success. I trust this letter provides confirmation of our resolution of this matter. We appreciate the opportunity to address the concerns of our customers.

Sincerely,

Wendy Hickok
ALLTEL Executive Customer Relations
Wendy.hickok@alltel.com
501.905.6190

cc Dennis Goetsch