

STATE OF IOWA  
DEPARTMENT OF COMMERCE  
UTILITIES BOARD

---

IN RE:  OFFICE OF CONSUMER ADVOCATE,  Complainant,  vs.  VOICE VOX,  Respondent.	DOCKET NO. FCU-03-18
--	----------------------

---

**ORDER DOCKETING FOR FORMAL PROCEEDING  
AND REQUESTING STATUS REPORT**

(Issued January 8, 2004)

On March 12, 2003, the Consumer Advocate Division of the Department of Justice (Consumer Advocate) filed with the Utilities Board (Board) a petition for a proceeding to impose civil penalties pursuant to Iowa Code § 476.103 (2003), asking that the Board review the proposed resolution issued in C-03-02, involving Voice Vox and consider the possibility of assessing a civil penalty pursuant to Iowa Code § 476.103(4)"a." Based upon the record assembled in the informal complaint proceedings (which are a part of the record in this proceeding pursuant to 199 IAC 6.7), it appears the events to date can be summarized as follows:

On January 2, 2003, Mr. Dale White filed a written complaint with the Board alleging that Voice Vox billed an unauthorized charge on his local telephone bill.

Board staff identified the matter as C-03-02 and, pursuant to Board rules, on January 7, 2003, forwarded the complaint to Voice Vox for response within ten days. Voice Vox did not respond within the ten-day time limit.

On March 5, 2003, Board staff issued a proposed resolution describing these events and finding by default that Voice Vox had violated the Board's cramming rules. The proposed resolution directed Voice Vox to fully credit all charges on Mr. White's account and to close Mr. White's account. No party other than the Consumer Advocate has challenged the staff's proposed resolution.

In a letter dated February 12, 2003, but received by Board staff on March 5, 2003, Voice Vox responded to Mr. White's complaint stating that Mr. White's account had been fully credited for the charges in question and had been canceled from the Voice Vox system. Voice Vox also enclosed a recording of the verification process of the sale made with Mr. White.

In its March 12, 2003, petition, Consumer Advocate asserts that a civil penalty should be imposed against Voice Vox to deter future cramming violations.

On March 24, 2003, Board staff received a response from Voice Vox to Consumer Advocate's petition. In that response, Voice Vox confirmed that Mr. White was issued a full refund of charges to his account and that his account had been canceled. Voice Vox also stated that it had taken action to prevent any future potential cramming situations.

The Board has reviewed the record to date and finds that there is sufficient information to warrant further investigation in this matter. The Board recognizes that there has not been any action in this matter for some time. Therefore, the Board will delay establishing a procedural schedule until January 30, 2004, and will request that the parties submit a report to the Board regarding the status of this matter on or before that date.

**IT IS THEREFORE ORDERED:**

1. The "Petition for Proceeding to Impose Civil Penalty" filed by the Consumer Advocate Division of the Department of Justice on March 12, 2003, identified as Docket No. FCU-03-18, is granted and the matter is docketed for formal proceedings.
2. The parties shall submit a status report to the Board on or before January 30, 2004, as described in this order.

**UTILITIES BOARD**

/s/ Diane Munns

/s/ Mark O. Lambert

ATTEST:

/s/ Judi K. Cooper  
Executive Secretary

/s/ Elliott Smith

Dated at Des Moines, Iowa, this 8<sup>th</sup> day of January, 2004.