

STATE OF IOWA  
DEPARTMENT OF COMMERCE  
UTILITIES BOARD

IN RE:  ADVANTAGE TELECOMMUNICATIONS CORPORATION	DOCKET NO. FCU-04-5 (FCU-03-16)
---	------------------------------------

**ORDER DOCKETING FOR FORMAL PROCEEDING,  
REQUESTING RESPONSE, AND  
ASSIGNING TO ADMINISTRATIVE LAW JUDGE**

(Issued February 4, 2004)

On December 19, 2002, the Utilities Board (Board) received a complaint from Ms. Denise Mendenhall against Advantage Telecommunications Corporation (Advantage) alleging that an Advantage employee initiated a misleading telemarketing call to Ms. Mendenhall. Board staff identified the complaint as RC-02-160 and, pursuant to Board rules, forwarded Ms. Mendenhall's complaint to Advantage on December 14, 2002, asking that Advantage respond to the allegations in Ms. Mendenhall's complaint and take appropriate action to prevent its telemarketers from making misleading calls.

Advantage responded to the complaint on January 6, 2003, stating that it does not have the resources to determine which telemarketer initiated the allegedly misleading call. In addition, Advantage stated that it does not tolerate inappropriate, misleading, or deceptive conduct in the selling of its programs and any representative found to have engaged in such conduct would be terminated.

On February 12, 2003, the Board received a call from Ms. Mendenhall, who stated that she had received approximately 27 telephone calls from Advantage. Ms. Mendenhall stated that the first call involved another attempt at a misleading telemarketing tactic and when she attempted to stop the telemarketing call, the Advantage representative held down a key on the telephone keypad. Ms. Mendenhall further stated that she received an additional 26 telephone calls where a key was held down on the telephone keypad. Ms. Mendenhall was able to allow a Qwest representative (Ms. Mendenhall's local exchange carrier) to hear several of the calls by using a conference call feature.

The Board has reviewed the record to date and finds that there is sufficient information to warrant further investigation in this matter. Therefore, the Board will initiate formal complaint proceedings on Ms. Mendenhall's complaint pursuant to Iowa Code §§ 476.3 and 476.51 and 199 IAC 6.5(3). The Board requests that Advantage respond to the allegations raised in Ms. Mendenhall's complaint within 20 days of the date of this order. The response should include answers to the following: (1) whether there is an alternative explanation to the events described in Ms. Mendenhall's complaint, and (2) what steps can be taken to prevent future similar occurrences, if the allegations are true.

Pursuant to Iowa Code § 17A.11(1)"b" (2003) and 199 IAC 7.1(4), the Board will assign this matter to an administrative law judge (ALJ) for further proceedings.

The ALJ will, among other things, set a hearing date, preside at the hearing, and issue a proposed decision.

**IT IS THEREFORE ORDERED:**

1. The complaint submitted on December 19, 2002, by Ms. Denise Mendenhall against Advantage Telecommunications Corporation is docketed as a formal complaint identified as Docket No. FCU-04-5.

2. Advantage Telecommunications Corporation shall file a written response to the complaint within 20 days of the issuance of this order.

3. Pursuant to Iowa Code § 17A.11(1)"b" and 199 IAC 7.1(4), this docket is assigned to the Board's administrative law judge, Amy Christensen, to conduct a hearing and issue a proposed decision. The administrative law judge shall have the authority provided under 199 IAC 7.1(4)"a" through "j."

**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 4<sup>th</sup> day of February, 2004.