

STATE OF IOWA
DEPARTMENT OF COMMERCE
UTILITIES BOARD

<p>IN RE:</p> <p>OFFICE OF CONSUMER ADVOCATE,</p> <p style="padding-left: 40px;">Complainant,</p> <p style="padding-left: 80px;">vs.</p> <p>LOTEL, INC., d/b/a COORDINATED BILLING SERVICES,</p> <p style="padding-left: 40px;">Respondent.</p>	<p style="text-align:center">DOCKET NO. FCU-04-34</p>
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**ORDER DOCKETING FOR FORMAL PROCEEDING AND
SETTING DEADLINE FOR RESPONSE**

(Issued September 1, 2004)

On July 27, 2004, the Consumer Advocate Division of the Department of Justice (Consumer Advocate) filed with the Utilities Board (Board) a petition for a proceeding to consider a civil penalty pursuant to Iowa Code § 476.103 (2003), asking that the Board review the proposed resolution in C-04-155, involving LoTel, Inc., d/b/a Coordinated Billing Services (Coordinated Billing), 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 June 10, 2004, Ms. Karen Schropp of Utility Equipment Company (Utility Equipment) of Bettendorf, Iowa, submitted a complaint to the Board alleging that

Coordinated Billing had changed the long distance carrier for Utility Equipment's Sioux City and Waterloo offices without authorization. Ms. Schropp noted in the complaint that in December of 2003, Utility Equipment had signed letters of agreement with Qwest Communications for local and long distance service to all of Utility Equipment's locations. Board staff identified the matter as C-04-155 and, pursuant to Board rules, on June 14, 2004, forwarded the complaint to Coordinated Billing for response within ten days.

Coordinated Billing responded to the complaint on June 22, 2004, stating that its sales agents contacted Utility Equipment's Waterloo and Sioux City locations about changing long distance service providers. Coordinated Billing indicated that on December 3, 2003, its sales agent contacted a Mr. Schmidt in Utility Equipment's Waterloo location. Coordinated Billing claims that Mr. Schmidt indicated to the sales agent that he wanted to switch the long distance service provider for the Waterloo location to Coordinated Billing and that he was authorized to make this decision. Coordinated Billing provided a copy of the verification recording and a written statement from the third-party verification company.

Coordinated Billing indicated that on April 20, 2004, its sales agent contacted a Mr. Ring in Utility Equipment's Sioux City location. Coordinated Billing claims that Mr. Ring indicated to the sales agent that he wanted to switch the long distance service provider for the Sioux City location to Coordinated Billing and that he was authorized to make this decision. Coordinated Billing provided a copy of the verification recording and a written statement from the third-party verification company.

Coordinated Billing also indicated in its response that it mailed a welcome packet, which includes a notice of all terms and conditions, after each verification was completed. Coordinated Billing also stated that it issued credits to Utility Equipment for charges incurred at the Waterloo and Sioux City locations.

On July 13, 2004, Board staff issued a proposed resolution describing these events and concluding that the recordings provided by Coordinated Billing were acceptable proof of authorization to switch the long distance company for the Waterloo and Sioux City locations. Board staff noted that Mr. Schmidt and Mr. Ring answered in the affirmative that each understood that this was a new long distance service for all long distance calls instate and all long distance calls out of state. The verifiers informed Mr. Schmidt and Mr. Ring that the new long distance service would be provided by Coordinated Billing, which is independent of the local telephone company, and quoted the rates and monthly fees. Board staff also noted that Coordinated Billing had mailed a welcome packet after each verification was completed and had fully credited the accounts for the Waterloo and Sioux City locations. The credits for the Waterloo location totaled \$281.84 and the credits for the Sioux City location totaled \$460.45.

In its July 27, 2004, petition, Consumer Advocate asserts that Board staff's proposed resolution is incorrect because neither the recordings of the verification portion of the calls nor anything else in the record discredits the complaining customer's allegations of misrepresentation by the telemarketers during the unrecorded telemarketing portions of the phone calls. Consumer Advocate asserts that a civil penalty should be imposed against Coordinated Billing to deter future

slamming violations. Consumer Advocate asserts that Coordinated Billing has a history of prior violation. Consumer Advocate requests that the Board docket this complaint for formal proceeding. Coordinated Billing has not responded to Consumer Advocate's petition.

The Board has reviewed the record to date and finds there is sufficient information to warrant further investigation into this matter. The Board will delay establishing a procedural schedule until September 27, 2004, and allow Coordinated Billing an opportunity to respond to the allegations raised in Consumer Advocate's petition.

IT IS THEREFORE ORDERED:

1. The "Petition for Proceeding to Consider Civil Penalty" filed by the Consumer Advocate Division of the Department of Justice on July 27, 2004, is granted and docketed for formal proceeding.

2. LoTel, Inc., d/b/a Coordinated Billing Services, is directed to file a response to Consumer Advocate's petition on or before September 27, 2004.

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 1st day of September, 2004.