

STATE OF IOWA
DEPARTMENT OF COMMERCE
UTILITIES BOARD

<p>IN RE:</p> <p>OFFICE OF CONSUMER ADVOCATE, Complainant,</p> <p>vs.</p> <p>NATIONAL ACCESS LONG DISTANCE, Respondent.</p>	<p>DOCKET NO. FCU-05-36</p>
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**ORDER DOCKETING FOR FORMAL PROCEEDING AND
SETTING DEADLINE FOR RESPONSE**

(Issued June 30, 2005)

On May 23, 2005, pursuant to Iowa Code §§ 476.3 and 476.103, 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 for an alleged slamming violation committed by National Access Long Distance (National Access). Based upon the record assembled in the informal complaint proceeding, the events to date can be summarized as follows:

On March 29, 2005, the Board received a complaint from Mr. Steve Allen of Dechant-Middendorf Insurance, Inc., of Clive, Iowa, alleging the long distance service for the company's offices in Johnston and Altoona, Iowa, had been switched without authorization. Mr. Allen stated that when he inquired about charges from parties

other than the company's preferred service provider he was told that an employee at each location had authorized the change in service. Mr. Allen stated that neither employee had authorized the change.

Board staff learned the charges were submitted on behalf of National Access. Board staff identified the matter as C-05-75 and, pursuant to Board rules, on March 30, 2005, forwarded the complaint to National Access for response. The Board received a response from National Access on April 15, 2005. National Access specified sale dates of March 29 and March 31, 2004, and a cancellation date of March 28, 2005, and identified the "contacts" at the offices as Kathy Kubik, District Manager, and Bill Buffett, Manager. National Access attached copies of recordings of the third-party verifications.

Board staff forwarded the recordings to Mr. Allen for his response. On May 9, 2005, Board staff issued a proposed resolution concluding that slamming had occurred in this matter. Staff explained that Mr. Allen indicated that the information on the verification recordings was not correct in that the voice on one recording was not the voice of Kathy Kubik, no employee had the particular title stated on the recording, and that no one named Mr. Buffett worked at the office in question. Staff noted that National Access had applied credits of \$200.82 plus tax for one account, and \$328.97 plus tax for the other account.

On May 20, 2005, the Board received a letter from Mr. Allen disputing the credit of \$328.97 plus tax offered by National Access for one of the accounts.

Mr. Allen stated that his billing statements showed charges totaling \$468.54 including taxes. Mr. Allen requested National Access to review its records and adjust the refund.

In its May 23, 2005, petition, Consumer Advocate asserts that the proposed resolution should be augmented with a civil penalty. Consumer Advocate argues that civil penalties are necessary because they will deter future violations and credits alone will not stop the unlawful practice of slamming.

On June 1, 2005, the Board received a letter from National Access dated May 24, 2005, stating that since National Access first replied to the complaint, the local exchange carrier had issued additional adjustments of \$105.29 to the account. National Access has not responded to Consumer Advocate's petition.

The Board has reviewed the record to date and finds there are reasonable grounds to warrant further investigation into this matter. The Board will docket this matter for formal proceeding, but will delay establishing a procedural schedule to allow National Access 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 May 23, 2005, is granted. File No. C-05-75 is docketed for formal proceedings, identified as Docket No. FCU-05-36.

2. National Access Long Distance is directed to file a response to Consumer Advocate's petition on or before 30 days from the date of this order.

UTILITIES BOARD

/s/ John R. Norris

ATTEST:

/s/ Judi K. Cooper
Executive Secretary

/s/ Elliott Smith

Dated at Des Moines, Iowa, this 30th day of June, 2005.