

STATE OF IOWA
DEPARTMENT OF COMMERCE
UTILITIES BOARD

<p>IN RE:</p> <p>OFFICE OF CONSUMER ADVOCATE,</p> <p style="padding-left: 100px;">Complainant,</p> <p style="padding-left: 100px;">vs.</p> <p>ZWW-ISP,</p> <p style="padding-left: 100px;">Respondent.</p>	<p style="text-align:center">DOCKET NO. FCU-05-59</p>
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**ORDER DOCKETING FOR FORMAL PROCEEDING AND
SETTING DEADLINE FOR RESPONSE**

(Issued October 17, 2005)

On September 6, 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 cramming violation committed by ZWW-ISP. Based upon the record assembled in the informal complaint proceeding, the events to date can be summarized as follows:

On June 30, 2005, the Board received a complaint from Nancy Kindred of Kindred Manufacturing of Palo, Iowa, alleging that telephone bills for Kindred Manufacturing included unauthorized charges. Ms. Kindred submitted copies of phone bills from February through June of 2005. A charge of \$49.95 appeared on each of the bills. The bill dated June 1, 2005, identified the charge as "ZWW-ISP

Mthly Fee" submitted by Integretel, Inc. (Integretel). Ms. Kindred stated she did not authorize the charges and wanted a refund.

Board staff identified the matter as C-05-135 and, pursuant to Board rules, on July 5, 2005, forwarded the complaint to Integretel for response. The Board received a response from Integretel on July 21, 2005, stating the disputed charges were submitted on behalf of its client, ZWW-ISP, and that it had forwarded a copy of the complaint to ZWW-ISP. On August 11, 2005, Board staff forwarded a copy of the complaint to ZWW-ISP for its response. ZWW-ISP did not respond to the complaint.

On August 29, 2005, Board staff issued a proposed resolution finding ZWW-ISP in violation of Board rules by default. Staff directed ZWW-ISP to fully credit the account and to refrain from any collection activity relating to the charges.

In its September 6, 2005, petition, Consumer Advocate asserts the proposed resolution should be expanded to clarify that companies cannot escape civil penalties by ignoring allegations of violation. Consumer Advocate argues that civil penalties are necessary because they will deter future violations and credits alone will not stop the unlawful practice of cramming. ZWW-ISP has not responded to Consumer Advocate's petition.

The Board has reviewed the record to date and finds there are reasonable grounds for further investigation of this matter. ZWW-ISP has not yet responded to the complaint or to Consumer Advocate's petition. The Board will docket this matter for formal proceeding, but will delay establishing a procedural schedule to allow ZWW-ISP an opportunity to respond to the allegations raised in Consumer Advocate's petition.

The Board cautions ZWW-ISP that failure to respond to Board inquiries and orders is a serious violation. The degree to which a party participates in the Board's investigation of informal complaints and provides timely responses to Board orders is an important factor in determining the size of the penalty for any violation. The Board urges ZWW-ISP to respond to this and future Board orders and inquiries in a timely manner.

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 September 6, 2005, is granted. File C-05-135 is docketed for formal proceedings, identified as Docket No. FCU-05-59.

2. ZWW-ISP 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

/s/ Diane Munns

ATTEST:

/s/ Margaret Munson
Executive Secretary, Deputy

/s/ Curtis W. Stamp

Dated at Des Moines, Iowa, this 17th day of October, 2005.