

STATE OF IOWA  
DEPARTMENT OF COMMERCE  
UTILITIES BOARD

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<p>IN RE:</p> <p>OFFICE OF CONSUMER ADVOCATE,</p> <p style="padding-left: 40px;">Complainant,</p> <p style="padding-left: 40px;">vs.</p> <p>SILV COMMUNICATION, INC.,</p> <p style="padding-left: 40px;">Respondent.</p>	<p style="text-align:center">DOCKET NO. FCU-05-62</p>
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**ORDER DOCKETING FOR FORMAL PROCEEDING AND  
SETTING DEADLINE FOR RESPONSE**

(Issued November 18, 2005)

On October 12, 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 Silv Communication, Inc. (Silv). Based upon the record assembled in the informal complaint proceeding, the events to date can be summarized as follows:

On July 28, 2005, the Board received a complaint from Steve Rust of Rust & Associates of Ankeny, Iowa, alleging Silv changed the long distance telephone service of Rust & Associates without authorization. Board staff identified the matter

as C-05-150 and, pursuant to Board rules, forwarded the complaint to Silv for response.

The Board received Silv's response on August 26, 2005. Silv stated it discontinued services to the customer as of August 4, 2005, and issued a credit of \$169.71. Silv provided a copy of a recording of a third-party verification. Board staff forwarded a copy of the recording to Mr. Rust for his review.

On October 3, 2005, Board staff issued a proposed resolution finding that slamming occurred in this matter. Staff noted that according to Silv, Rust & Associates was contacted on June 8, 2005, and someone named Lydia Pea authorized the change in service. Staff concluded the authorization was not valid because Mr. Rust reviewed the recording and explained that no one named Lydia Pea is employed by Rust & Associates.

In its October 12, 2005, petition, Consumer Advocate indicates that it supports the proposed resolution, but asserts it should be augmented with a civil monetary penalty. Consumer Advocate argues civil penalties are necessary to stop the unlawful practice, ensure compliance, and deter future violations. Silv 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 grant Consumer Advocate's petition for proceeding to consider a civil penalty but will delay

establishing a procedural schedule to allow Silv an opportunity to respond to 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 October 12, 2005, is granted. File C-05-150 is docketed for formal proceeding, identified as Docket No. FCU-05-62.

2. Silv Communication, Inc., is directed to file a response to Consumer Advocate's petition within 30 days of the date of this order.

**UTILITIES BOARD**

/s/ John R. Norris

/s/ Diane Munns

ATTEST:

/s/ Judi K. Cooper  
Executive Secretary

/s/ Curtis W. Stamp

Dated at Des Moines, Iowa, this 18<sup>th</sup> day of November, 2005.