

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: 40px;">vs.</p> <p>FIBERLINK,</p> <p style="padding-left: 40px;">Respondent.</p>	<p style="text-align:center">DOCKET NO. FCU-05-64</p>
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**ORDER DOCKETING FOR FORMAL PROCEEDING AND
SETTING DEADLINE FOR RESPONSE**

(Issued December 5, 2005)

On October 24, 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 Fiberlink. Based upon the record assembled in the informal complaint proceeding, the events to date can be summarized as follows:

On September 15, 2005, the Board received a complaint from Scott Hippen of Ames, Iowa, alleging his phone bill included unauthorized charges from Zero Plus Dialing, Inc. (Zero Plus Dialing), totaling \$30.24. On September 1, 2005, Mr. Hippen had submitted his complaint to the Attorney General's Consumer Protection Division

stating the charges were for a five-minute call to the United Kingdom he did not make.

Board staff identified the matter as C-05-185 and, pursuant to Board rules, forwarded the complaint to Zero Plus Dialing for response. The Board received a response from Zero Plus Dialing on September 26, 2005. Zero Plus Dialing stated it submitted the disputed charges on behalf of Fiberlink and that a full credit had been issued. On September 27, 2005, Board staff forwarded a copy of Mr. Hippen's complaint to Fiberlink for response. Fiberlink did not respond to the complaint.

On October 14, 2005, Board staff issued a proposed resolution finding by default that because Fiberlink did not show the charges were authorized, it was in violation of the Board's rules against cramming.

In its October 24, 2005, petition, Consumer Advocate indicates that it supports the proposed resolution but that it should be expanded to clarify that companies cannot escape civil penalties by ignoring allegations of violation. Consumer Advocate asserts a civil penalty is necessary to deter future violations and because a credit alone will not stop the practice of cramming. Fiberlink 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 of 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 Fiberlink 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 24, 2005, is granted. File C-05-185 is docketed for formal proceeding, identified as Docket No. FCU-05-64.

2. Fiberlink 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

Dated at Des Moines, Iowa, this 5th day of December, 2005.