

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>vs.</p> <p>TELSEVEN, L.L.C.,</p> <p style="padding-left: 40px;">Respondent.</p>	<p style="text-align:center">DOCKET NO. FCU-06-18</p>
--	---

**ORDER GRANTING REQUEST FOR FORMAL PROCEEDING, GRANTING
EXTENSION OF TIME, AND SETTING DEADLINE FOR RESPONSE**

(Issued February 16, 2006)

On January 24, 2006, 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 Telseven, L.L.C. (Telseven).

The proposed resolution by Board staff that is the basis for this proceeding involved a company named "Calling 10 15 15 800." In its petition, Consumer Advocate asserts that Calling 10 15 15 800 is also known as Telseven. Because Consumer Advocate brought this action against Telseven, the Board will use that name in this order.

Based upon the record assembled in the informal complaint proceeding, the events to date can be summarized as follows:

On January 3, 2006, the Board received a complaint from JoAnn Kool of Oskaloosa, Iowa, alleging her phone bill included an unauthorized charge of \$7.39 from OAN Services, Inc. (OAN), for a directory assistance call to Las Vegas, Nevada.

Board staff identified the matter as C-06-2 and, pursuant to Board rules, forwarded the complaint to OAN for response. The Board received a response from OAN on January 17, 2006. OAN stated it submitted the disputed charge on behalf of Telseven, a company that provides national directory assistance telephone service, and that a credit of \$7.17 plus tax had been issued in response to the complaint. OAN stated that Telseven presented call records to OAN showing the disputed call was made by someone from Ms. Kool's telephone number. OAN also stated that in order to use and be billed for Telseven's service, a consumer must initiate the call and request the service.

On January 19, 2006, Board staff issued a proposed resolution finding that because neither OAN nor Telseven provided proof that Ms. Kool authorized the charge for directory assistance, both companies were in violation of the Board's rules.

In its January 24, 2006, petition, Consumer Advocate states that the proposed resolution should be augmented with a civil penalty. Consumer Advocate asserts a

civil penalty is necessary to deter future violations and because a credit alone will not stop the practice of cramming.

On February 2, 2006, Telseven filed a request for formal complaint proceeding for purposes of challenging staff's proposed resolution. Telseven asserts definitive proof exists in the call records of multiple companies that the disputed call was in fact made from Ms. Kool's telephone number and that it is seeking the records from the interexchange carrier which would have carried the call and from the local exchange carrier which would have originated the call. Telseven asks that no further action be taken in this matter prior to March 1, 2006.

On February 3, 2006, Consumer Advocate filed a response to Telseven's request for formal proceeding. Consumer Advocate states that its petition and Telseven's request should both be granted as they largely raise the same issue. Consumer Advocate opposes delaying action until March 1, 2006, and argues the records Telseven says it will produce at most will create a factual issue that cannot be resolved without a hearing. Consumer Advocate urges the Board to docket the proceedings as soon as feasible.

On February 6, 2006, Telseven filed a motion for extension of time to file a response to Consumer Advocate's petition. Telseven asks that it be granted an extension to March 1, 2006, in which to respond. Telseven indicates that it is working to develop a procedure for responding to any complaints which may be brought before the Board and that the procedure will involve gathering its call records and

records from the interexchange and local exchange carriers involved in carrying and originating any disputed calls. Telseven indicates it should have the procedure to obtain this information in place by the end of February 2006.

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 a proceeding to consider a civil penalty and Telseven's request for formal proceeding. The Board will delay establishing a procedural schedule to allow Telseven to gather the information it says it needs to prepare a response to Consumer Advocate's petition.

The Board finds Telseven's request for extension of time reasonable and will grant the motion, but will allow Telseven 30 days from the date of this order in which to respond, as that is the Board's usual practice after docketing a petition. The Board understands Consumer Advocate's objection was directed at any potential delay in docketing this matter, not to a delay in Telseven's initial response to the petition. Also, the Board interprets Telseven's request that no further action be taken concerning this matter until March 1, 2006, to mean no further action other than docketing the matter.

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 January 24, 2006, is

granted. File C-06-2 is docketed for formal proceeding, identified as Docket No. FCU-06-18.

2. The "Request for Formal Complaint Proceeding" filed by Telseven, L.L.C., on February 2, 2006, is granted.

3. The motion for extension of time filed by Telseven, L.L.C., in this docket on February 6, 2006, is granted. Telseven, L.L.C., must file a response to Consumer Advocate's petition for proceeding to consider civil penalty within 30 days of the date of this order.

UTILITIES BOARD

/s/ John R. Norris

ATTEST:

/s/ Judi K. Cooper
Executive Secretary

/s/ Curtis W. Stamp

Dated at Des Moines, Iowa, this 16th day of February, 2006.