

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>BUSINESS NETWORK LONG DISTANCE, INC.,</p> <p style="padding-left: 40px;">Respondent.</p>	<p style="text-align:center">DOCKET NO. FCU-06-17</p>
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**ORDER DOCKETING FOR FORMAL PROCEEDING AND
SETTING DEADLINE FOR RESPONSE**

(Issued February 28, 2006)

On January 23, 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 slamming violation committed by Business Network Long Distance, Inc. (BNLD). Based upon the record assembled in the informal complaint proceeding, the events to date can be summarized as follows:

On December 15, 2005, the Board received a complaint from Allie Brunn, the office manager of Petland in Iowa City, Iowa, that Petland's long distance telephone

service was changed without authorization. Attached to the complaint was a copy of a telephone bill showing charges submitted on behalf of BNLD totaling \$80.26.

Board staff identified the matter as C-05-248 and, on December 16, 2005, forwarded the complaint to BNLD for response. The Board's records do not contain a response from BNLD.

On January 13, 2006, Board staff issued a proposed resolution finding that because BNLD failed to respond to the complaint within the required time period, it was in violation of the Board's rules. Staff directed the company to close the account and credit all charges.

In its January 23, 2006, petition, Consumer Advocate states that BNLD responded to the complaint and attached a copy of a letter from BNLD dated December 26, 2005, received by Consumer Advocate on January 5, 2006. In the letter, BNLD asserts that a telemarketer contacted Petland on November 11, 2005, and spoke to Ms. Brunn, who authorized the change in service and completed the third-party verification process. BNLD also states it canceled the service for the account in question and issued a full credit.

Consumer Advocate states that because BNLD's response did not include a recording of the verification, Board staff's finding of a violation is correct. Further, Consumer Advocate states that, according to Ms. Brunn, the telemarketer

misrepresented that she worked for Qwest Corporation (Qwest), there had been a computer crash, and that Qwest wanted to reimburse Petland for an overcharge. According to Ms. Brunn, the telemarketer did not mention BNLD and did not mention long distance service. Consumer Advocate asserts the alleged misrepresentations were fraudulent and vitiate any authorization for the change Ms. Brunn may have given.

Consumer Advocate argues the proposed resolution should be augmented with a civil penalty and that a civil penalty is necessary because a credit alone will not stop the unlawful practice of slamming. BNLD 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 BNLD 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 January 23, 2006, is granted. File C-05-248 is docketed for formal proceeding, identified as Docket No. FCU-06-17.

2. Business Network Long Distance, 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 28th day of February, 2006.