

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>YESTEL, INC.,</p> <p style="padding-left: 100px;">Respondent.</p>	<p style="text-align:center">DOCKET NO. FCU-06-32</p>
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**ORDER DOCKETING FOR FORMAL PROCEEDING AND
SETTING DEADLINE FOR RESPONSE**

(Issued May 15, 2006)

On March 28, 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 Yestel, Inc. (Yestel). Based upon the record assembled in the informal complaint proceeding, the events to date can be summarized as follows:

On January 24, 2006, the Board received a complaint from Mr. Taifa Yu of Cedar Rapids, Iowa, alleging he was contacted by a representative of Yestel who stated that his existing long distance carrier, VTX Telecom (VTX), was a subsidiary of Yestel and the companies would be consolidating. Mr. Yu stated he was told that if he did not switch to Yestel, his long distance service would be disconnected. Mr. Yu

stated he learned that the statements of Yestel's representative were not true when VTX contacted him to ask why he had switched his long distance provider.

Board staff identified the matter as C-06-15 and, on January 27, 2006, forwarded the complaint to Yestel for response. The Board received Yestel's response on February 7, 2006. Yestel denied misleading the customer and stated the customer authorized the change in service. Yestel included a copy of the recording of the third-party verification.

On February 22, 2006, Board staff forwarded the recording to Mr. Yu for his review. Mr. Yu stated he agreed to switch to Yestel based on Yestel's representative's statement that his carrier of choice was going out of business. Mr. Yu explained he would not have willingly agreed to change his service rates from three cents per minute to over six cents per minute if there was not a reason to do so.

On March 15, 2006, Board staff issued a proposed resolution finding Yestel violated the Board's rules against slamming. Staff concluded that Mr. Yu's decision to authorize service with Yestel was based on misinformation. Staff asked Yestel to credit and close Mr. Yu's account.

In its March 28, 2006, petition, Consumer Advocate argues the misrepresentation alleged by Mr. Yu was fraudulent and such fraud vitiates any authorization Mr. Yu may have given for the change in service. Consumer Advocate asserts a civil penalty is necessary to deter future violations and because a credit alone will not stop the fraudulent practice. Yestel 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 Yestel 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 March 28, 2006, is granted. File C-06-15 is docketed for formal proceeding, identified as Docket No. FCU-06-32.

2. Yestel, 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

ATTEST:

/s/ Judi K. Cooper
Executive Secretary

/s/ Curtis W. Stamp

Dated at Des Moines, Iowa, this 15th day of May, 2006.