

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: 100px;">Complainant,</p> <p style="padding-left: 40px;">vs.</p> <p>INTERNATIONAL SATELLITE COMMUNICATIONS,</p> <p style="padding-left: 100px;">Respondent.</p>	<p>DOCKET NO. FCU-06-44</p>
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**ORDER GRANTING MOTION FOR DEFAULT JUDGMENT AND  
ORDERING PAYMENT OF DEFAULT JUDGMENT**

(Issued October 5, 2006)

On September 12, 2006, the Consumer Advocate Division of the Department of Justice (Consumer Advocate) filed with the Utilities Board (Board) a motion to enter judgment by default against International Satellite Communications (ISC).

On June 9, 2006, Consumer Advocate filed with the Board a petition for proceeding to consider a civil penalty for an alleged cramming violation committed by ISC. That petition arose out of an informal complaint in which a customer complained that his local telephone bill included unauthorized charges submitted on behalf of ISC. Board staff had forwarded the complaint to ISC for response, but ISC failed to respond. On June 6, 2006, Board staff issued a proposed resolution finding ISC in violation of the Board's rules because it failed to respond to the complaint.

In an order issued on July 18, 2006, the Board docketed Consumer Advocate's petition for formal proceeding, identified as Docket No. FCU-06-44, and directed ISC to respond to Consumer Advocate's petition within 30 days. ISC has not filed a response to the petition.

In its motion for default judgment, Consumer Advocate states that ISC is in default in Docket No. FCU-06-44 as it has not responded to the petition for proceeding to consider a civil penalty. Consumer Advocate states that on August 25, 2006, it mailed ISC a notice of intention to file application for default in this docket. Consumer Advocate states it has received no response to the notice. Consumer Advocate seeks judgment by default against ISC for a civil monetary penalty in an amount the Board deems appropriate, up to and including \$10,000 per violation, the maximum amount authorized by law.

### **ANALYSIS**

Iowa Code § 17A.12(3) provides that if a party fails to appear or participate in a contested case proceeding after proper service of notice, the presiding officer may, if no adjournment is granted, enter a default decision or proceed with the hearing and make a decision in the absence of the party. Iowa Code § 476.103(4)"a" provides that a service provider who violates the section, a rule adopted pursuant to the section, or an order issued pursuant to the section is subject to a civil penalty of not more than ten thousand dollars per violation, which, after notice and opportunity for hearing, may be levied by the Board.

The Board finds that ISC has failed to respond to inquiries from Board staff in the informal complaint proceeding and to a Board order directing it to respond to Consumer Advocate's petition. The Board agrees with Consumer Advocate that ISC is in default in Docket No. FCU-06-44. Failure to respond to Board inquiries and orders is a serious violation. The degree to which a party participates in the Board's investigation of informal complaints and responds to Board orders is an important factor in determining the size of the penalty for a violation. Here, because ISC has shown a disregard for the process by its complete lack of response, the Board finds the maximum penalty is warranted. Pursuant to Iowa Code §§ 17A.12(3) and 476.103(4)"a," the Board will grant Consumer Advocate's motion for a default judgment against ISC in the amount of \$10,000.

### **ORDERING CLAUSES**

#### **IT IS THEREFORE ORDERED:**

1. The "Application for Entry of Judgment by Default" filed by the Consumer Advocate Division of the Department of Justice on September 12, 2006, is granted.
2. Judgment by default is granted against International Satellite Communications in Docket No. FCU-06-44 in the amount of \$10,000.
3. Payment, in the form of a check made payable to the Iowa Utilities Board, should be forwarded to the Executive Secretary of the Iowa Utilities Board at

DOCKET NO. FCU-06-44  
PAGE 4

350 Maple Street, Des Moines, Iowa 50319-0069. Payment is due within 35 days of this order. The docket number listed on this order shall be listed on the check or in the accompanying correspondence.

**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 5<sup>th</sup> day of October, 2006.