

STATE OF IOWA  
DEPARTMENT OF COMMERCE  
UTILITIES BOARD

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<p>IN RE:</p> <p>OFFICE OF CONSUMER ADVOCATE,                      Complainant,</p> <p>vs.</p> <p>BUZZ TELECOM, CORP.,                      Respondent.</p>	<p>DOCKET NO. FCU-06-55                     (C-06-176)</p>
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**ORDER DOCKETING FOR FORMAL PROCEEDING AND  
SETTING DEADLINE FOR RESPONSE**

(Issued December 4, 2006)

On October 10, 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 or cramming violation committed by Buzz Telecom, Corp. (Buzz). Based upon the record assembled in the informal complaint proceeding, the events to date can be summarized as follows:

On August 21, 2006, the Board received a complaint from John Boccella on behalf of his mother-in-law, Virlyne Terry of Ames, Iowa, alleging that Buzz charged her for services she did not order or authorize. Mr. Boccella explained that Ms. Terry contacted Buzz to dispute the charges and a credit was issued. The telephone bill

attached to the complaint shows charges totaling \$39.80 submitted on behalf of Buzz and identified as a carrier cost recovery fee, super saver monthly fee, and Buzz activation fee.

Board staff identified the matter as C-06-176 and, on August 23, 2006, forwarded the complaint to Buzz for response. In its response, Buzz stated its records show that Ms. Terry requested long distance service from Buzz on July 18, 2006, and provided her birth date of March 21 as her security pass code. Buzz also stated it closed the account and issued a credit for the activation fee and all service fees. Buzz included a copy of the recording of the third-party verification with its response.

Board staff requested information about Ms. Terry's account from her local telephone company, Qwest Corporation (Qwest). Qwest explained that Buzz did not request a switch of long distance provider for Ms. Terry.

On September 6, 2006, Board staff forwarded a copy of the response from Buzz and recording to Mr. Boccella for Ms. Terry's review. The Board received a response from Mr. Boccella on September 19, 2006, stating that he reviewed the recording with Ms. Terry and confirms it is her voice on the recording; Ms. Terry does not recall the conversation; the salesperson spoke rapidly, making it nearly impossible for Ms. Terry, who is 85 years old, to understand what was being said; and that the salesperson recorded an incorrect date of birth for Ms. Terry.

On September 26, 2006, Board staff issued a proposed resolution concluding that the recording submitted by Buzz is acceptable proof that the charges were authorized and thus cramming did not occur.

In its October 10, 2006, petition for proceeding to consider civil penalty, Consumer Advocate states Ms. Terry's complaint is one of a large number of complaints in recent months alleging that Buzz has engaged in fraudulent telemarketing practices particularly directed at elderly Iowans.<sup>1</sup> Consumer Advocate argues the proposed resolution in this case is incorrect and identifies three issues that require further investigation: (1) the fact that the recording contains an incorrect birth date suggests there may be something wrong with the recording; (2) based on the information from Qwest that Buzz did not request to switch Ms. Terry's long distance service to Buzz, it appears Buzz may have been billing Ms. Terry for nothing; and (3) Buzz did not provide the name and address of the verification company. Further, Consumer Advocate argues that, based on the multiple complaints alleging misrepresentation by Buzz, it appears there may have been a pattern of misrepresentation and that such a pattern can support an inference that misrepresentations were made in this case.

Consumer Advocate asks the Board to docket this matter for formal proceeding to give Buzz notice and opportunity for hearing; determine whether Buzz committed a slamming or cramming violation; consider a penalty to deter future

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<sup>1</sup> Ms. Terry's complaint was one of 65 complaints the Board received against Buzz between April 2006 and November 29, 2006.

violations; and to consider the remedies available for a pattern of violations pursuant to Iowa Code § 476.103(5).

On October 26, 2006, Ms. Terry filed a statement with the Board reiterating her complaint that Buzz billed her for services she did not knowingly ask for and urging the Board to move forward with a proceeding against Buzz. Buzz 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 Buzz an opportunity to respond to Consumer Advocate's petition.

The Board has received, and is processing, other informal complaints against Buzz. To the extent those C-files result in formal proceedings the Board proposes to consolidate them with this docket. If any party objects to this proposal, the party may raise that objection at the time the issue of whether to grant formal complaint proceedings is before the Board.

**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 10, 2006, is granted. File C-06-176 is docketed for formal proceeding, identified as Docket No. FCU-06-55.

2. Buzz Telecom, Corp. 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 4<sup>th</sup> day of December, 2006.