

STATE OF IOWA
DEPARTMENT OF COMMERCE
UTILITIES BOARD

IN RE: OFFICE OF CONSUMER ADVOCATE, Complainant, vs. BUZZ TELECOM, CORP., Respondent.	DOCKET NO. FCU-06-55 (C-06-159, C-06-175, C-06-176 C-06-195, C-06-200, C-06-206, C-06-220, C-06-223, C-06-230, C-06-231, C-06-233, C-06-242)
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**ORDER GRANTING MOTION FOR DEFAULT JUDGMENT,
ASSESSING CIVIL PENALTIES, AND
PROHIBITING ALL CARRIERS FROM
SERVING OR BILLING FOR RESPONDENT**

(Issued January 30, 2007)

On January 12, 2007, 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 Buzz Telecom, Corp. (Buzz).

On September 15, October 16, and November 1 and 15, 2006, Consumer Advocate filed petitions for proceedings to consider civil penalties for alleged slamming or cramming violations committed by Buzz. Those petitions arose out of 12 informal complaint proceedings in which consumers alleged that Buzz made

unauthorized changes to their long distance service.¹

On December 4, 2006, the Board issued an order granting Consumer Advocate's request for a proceeding to consider a civil penalty in File No. C-06-176 and identifying the matter as Docket No. FCU-06-55. On December 15, 2006, the Board issued an order granting Consumer Advocate's requests for proceedings to consider civil penalties in and consolidating File Nos. C-06-159, C-06-175, C-06-195, C-06-200, C-06-206, C-06-220, C-06-223, C-06-230, C-06-231, C-06-233, and C-06-242 with Docket No. FCU-06-55. The Board's December 15, 2006, order directed Buzz to respond to Consumer Advocate's petitions by December 22, 2006. Buzz did not respond to the petitions.

In its motion for default judgment, Consumer Advocate states that Buzz is in default in Docket No. FCU-06-55 as it has not responded to the petitions as directed by the Board and has not responded to Consumer Advocate's data requests. Consumer Advocate states that on December 28, 2006, it mailed Buzz a notice of intention to file application for default in this docket. Consumer Advocate seeks judgment by default against Buzz in these 12 cases for civil monetary penalties in amounts the Board deems appropriate, up to and including \$10,000 per violation, the maximum amount allowed by law.

¹From April of 2006 to January 24, 2007, the Board received 294 complaints from consumers alleging Buzz made unauthorized changes to their telecommunications service. The 12 complaints that are the subject of this order are the first group to reach the final stages of the Board's formal complaint process.

Also, Consumer Advocate states the alleged violations constitute a pattern of violations and seeks judgment by default for relief pursuant to Iowa Code § 476.103(5). Specifically, Consumer Advocate asks the Board to prohibit other service providers from billing charges to residents of Iowa on behalf of Buzz and to prohibit certificated local exchange service providers from providing exchange access service to Buzz.

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 a party. Iowa Code § 476.103(4)"a" provides that a service provider that 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 section further provides that each violation is a separate offense.

The Board finds that Buzz has failed to respond to the Board's December 15, 2006, order and has failed to respond to Consumer Advocate's data requests. The Board agrees with Consumer Advocate that Buzz is in default in Docket No. FCU-06-55. Failure to respond to the Board's order is a serious violation. The degree to which a party participates in the Board's investigations of informal complaints and

responds to Board orders is an important factor in determining the size of the penalty for a violation. Here, because the misrepresentations Buzz is alleged to have committed were so numerous and apparently directed at elderly lowans, and because Buzz showed disregard for the Board's process by failing to answer those allegations, 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 Buzz in the amount of \$10,000 per violation, for a total of \$120,000.

Further, the Board concludes that Buzz has shown a pattern of violations of the Board's rules at 199 IAC 22.23, which prohibit unauthorized changes in telecommunications service. Therefore, application of the penalties provided in Iowa Code § 476.103(5) is appropriate in this case. Pursuant to Iowa Code § 476.103(5), the Board will prohibit any other service provider from billing charges to residents of Iowa on behalf of Buzz and will prohibit certificated local exchange providers from providing exchange access services to Buzz.

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 January 12, 2007, is granted.
2. Judgment by default is granted against Buzz Telecom, Corp., in Docket No. FCU-06-55 in the amount of \$120,000 for violations in File Nos. C-06-159, C-06-

175, C-06-176, C-06-195, C-06-200, C-06-206, C-06-220, C-06-223, C-06-230, C-06-231, C-06-233, and C-06-242.

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 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.

4. All service providers operating in Iowa are prohibited from billing charges to residents of Iowa on behalf of Buzz Telecom, Corp. A copy of this order will be mailed to each certificated local exchange service provider in Iowa. Any service provider which believes it is unable to comply with this prohibition within a reasonable time must notify the Board of its inability and request appropriate relief from this prohibition.

5. All certificated local exchange providers are prohibited from providing exchange access services to Buzz Telecom, Corp. Any certificated local exchange

provider which believes it is unable to comply with this prohibition within a reasonable time must notify the Board of its inability and request appropriate relief from this prohibition.

UTILITIES BOARD

/s/ John R. Norris

/s/ Curtis W. Stamp

ATTEST:

/s/ Judi K. Cooper
Executive Secretary

Dated at Des Moines, Iowa, this 30th day of January, 2007.