

STATE OF IOWA
DEPARTMENT OF COMMERCE
UTILITIES BOARD

IN RE: OFFICE OF CONSUMER ADVOCATE, Complainant, vs. ONE CALL COMMUNICATIONS, INC., Respondent.	DOCKET NOS. FCU-04-54 FCU-04-63 FCU-04-64 FCU-05-1 FCU-05-3 FCU-05-8 FCU-05-12 FCU-05-15 FCU-05-24 FCU-05-25 FCU-05-43 FCU-05-45 FCU-05-74 FCU-06-13
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**ORDER DISMISSING PETITIONS WITHOUT PREJUDICE
AND CLOSING DOCKETS**

(Issued February 23, 2007)

This case originated with a number of customers who filed complaints with the Utilities Board (Board) alleging that charges were placed on their telephone bills without their authorization. After Board staff issued proposed resolutions in each case, the Consumer Advocate Division of the Department of Justice (Consumer Advocate) then filed petitions for formal proceedings and requested the Board to consider imposing civil penalties on One Call Communications, Inc. (One Call) for alleged cramming violations. The Board docketed the cases, consolidated them, and assigned them to the undersigned administrative law judge.

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On May 8, 2006, One Call filed an "Attorney Statement" with the Board that stated: "On May 8, 2006, the undersigned attorneys were instructed by One Call Communications, Inc., to cease all work related to the above captioned matter." The statement was signed by One Call's attorney, Ms. Krista Tanner, and also listed attorney Mr. Phil Stoffregen as an attorney for One Call.

On May 10, 2006, the Consumer Advocate filed a "Motion for Order Directing Respondent to Provide Appropriate Contact Person and Request for Expedited Relief" with the Board. The Consumer Advocate moved "for an order requiring One Call within three days to advise OCA of an appropriate contact person for purposes of further processing of the cases or, in the alternative, to advise OCA and the ALJ how One Call intends to proceed with these cases."

On May 19, 2006, One Call filed a statement enclosing an order issued May 12, 2006, by U.S. District Court Judge Tinder in the U.S. District Court for the Southern District of Indiana, Indianapolis Division, in Civil Action No.: 1:06-cv-0755-JDT-TAB (Federal Order). In the Federal Order, Judge Tinder found that One Call was in default on a debt, was operating at a loss and unable to meet its current obligations, and had dismissed its employees. The Federal Order appointed a receiver for One Call "to preserve its assets and to liquidate the same in an orderly manner." Among other things, paragraph 28 of the Federal Order enjoined the commencement, prosecution, continuation, or enforcement of any suit or proceeding

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against One Call. One Call filed its statement with respect to all the dockets listed above and Docket No. FCU-06-41.

On May 26, 2006, the Consumer Advocate filed a "Statement of Position in Response to Indiana Receivership Order." The Consumer Advocate argued that these proceedings could go forward pursuant to Iowa's police and regulatory powers. However, the Consumer Advocate stated, it was evident One Call had ceased operations and the purpose of the receivership was to liquidate One Call's assets. The Consumer Advocate further stated it appeared the purpose of the civil monetary penalties authorized by Iowa Code § 476.103 (2005), to deter recurrent violations, had been fulfilled. The Consumer Advocate stated its limited resources were more effectively devoted to other cases and it would comply with paragraph 28 of the Federal Order. Finally, the Consumer Advocate stated, if and when One Call's assets were liquidated, it intended to withdraw the petitions in these dockets.

On June 1, 2006, the undersigned issued an order suspending the procedural schedules, canceling two hearings, ordering One Call to file a status report regarding these dockets informing the Board and the Consumer Advocate of the status of the receivership discussed in the Federal Order on December 1, 2006, and ordering the Consumer Advocate to file a response to One Call's status report on December 15, 2006, stating whether it intended to withdraw its petitions in these dockets at that time.

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As of December 12, 2006, One Call had not filed the status report due December 1, 2006. On December 12, 2006, the undersigned issued an order requiring One Call to file the required status report on or before December 18, 2006, and ordering the Consumer Advocate to file a response within 15 days after One Call filed its report.

On December 18, 2006, One Call's former attorney, Ms. Krista Tanner, filed a statement in which she stated the Federal Order had terminated her representation of One Call and paragraph 28 of the order made it improper for her to continue this action by filing a status report. Ms. Tanner also withdrew as counsel for One Call in this proceeding, and stated all future filings and correspondence should be addressed to the appointed receiver. The statement did not indicate whether One Call's other attorney of record, Mr. Philip Stoffregen, continued to represent One Call.

On January 3, 2007, the Consumer Advocate filed a status report stating that it was not willing to withdraw the petitions at the time. The Consumer Advocate stated it would endeavor to investigate the status of the matter if time permitted.

On February 13, 2007, the undersigned issued an order finding the status of the dockets should not be left open without specific filing requirements and it was not clear whether Mr. Stoffregen continued to represent One Call. The order required Mr. Stoffregen to file a letter stating whether he continued to represent One Call and required the Consumer Advocate to file a report regarding the status of the

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receivership and stating whether it would be willing to withdraw its petitions in these dockets or acquiesce to their dismissal without prejudice.

On February 14, 2007, the Consumer Advocate filed a response to the order. The Consumer Advocate stated it had been advised by the clerk of the United States District Court for the Southern District of Indiana that the receivership proceeding is pending. The Consumer Advocate stated the plaintiff in the receivership proceeding had filed a motion for default and One Call had failed to appear for a pretrial conference on January 16, 2007. The Consumer Advocate stated plaintiff's counsel had advised the Consumer Advocate that the plaintiff was attempting to secure information regarding where the company's assets went and may be filing a motion to compel against the former officers of the defendant. The Consumer Advocate stated its position remained as previously stated in the May 26, 2006, and January 3, 2007, filings, but it understood the Board's concern that the dockets not be left open indefinitely. The Consumer Advocate stated, although it was not willing to withdraw its petitions, it was willing to acquiesce in their closure without prejudice to reopening if and when circumstances suggested a need to reopen.

On February 19, 2007, attorney Mr. Philip Stoffregen filed a letter stating he did not represent One Call in these dockets or in any other matter.

From the information available to date, it appears reasonable to dismiss the Consumer Advocate's petitions and close these dockets so long as they may be reopened if needed. Dismissing the petitions without prejudice should provide any

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needed protection for Iowa consumers, since it appears that One Call is no longer operating. If it appears to the Consumer Advocate that there is a need to reopen these dockets, the Consumer Advocate may file an appropriate motion at any time.

The Consumer Advocate's filings also relate to Docket No. FCU-06-41. The Board has not assigned that docket to the undersigned, so this order makes no ruling with respect to Docket No. FCU-06-41.

IT IS THEREFORE ORDERED:

The petitions filed by the Consumer Advocate in Docket Nos. FCU-04-54, FCU-04-63, FCU-04-64, FCU-05-1, FCU-05-3, FCU-05-8, FCU-05-12, FCU-05-15, FCU-05-24, FCU-05-25, FCU-05-43, FCU-05-45, FCU-05-74, and FCU-06-13 are hereby dismissed without prejudice and the dockets are closed.

UTILITIES BOARD

/s/ Amy L. Christensen
Amy L. Christensen
Administrative Law Judge

ATTEST:

/s/ Judi K. Cooper
Executive Secretary

Dated at Des Moines, Iowa, this 23rd day of February, 2007.