

STATE OF IOWA
DEPARTMENT OF COMMERCE
UTILITIES BOARD

<p>IN RE:</p> <p>OFFICE OF CONSUMER ADVOCATE,</p> <p style="text-align:center">Complainant,</p> <p style="text-align:center">vs.</p> <p>ONE CALL COMMUNICATIONS, INC.,</p> <p style="text-align:center">Respondent.</p>	<p style="text-align:center">DOCKET NO. FCU-06-41</p>
---	---

ORDER CLOSING DOCKET

(Issued February 27, 2007)

On May 2, 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 cramming violation committed by One Call Communications, Inc. (One Call). Three other proceedings in which One Call is a party, Docket Nos. FCU-04-54 *et al.*, FCU-05-74, and FCU-06-13, were assigned to the Board's administrative law judge (ALJ). In the course of those proceedings, the Board learned that a receivership proceeding was commenced by one of One Call's secured creditors in the United States District Court for the Southern District of Indiana, Indianapolis Division.

On May 26, 2006, Consumer Advocate filed a statement with the Board indicating it would comply with the provision of the receivership order enjoining all

persons from continuing any suit or proceeding against One Call except before the receivership court. Consumer Advocate stated it intended to withdraw the petition it filed in this matter if and when the liquidation of One Call's assets is completed.

On June 1, 2006, the ALJ issued an order suspending the procedural schedules and canceling the hearings in Docket Nos. FCU-04-54 *et al.*, FCU-05-74, and FCU-06-13 and requiring status reports from the parties.

In an order issued on June 9, 2006, the Board delayed docketing Consumer Advocate's petition for proceeding to consider civil penalty and directed the parties to file status reports by December 1, 2006, or at the conclusion of the receivership proceeding, whichever came first. One Call was directed to file a statement indicating the status or final outcome of the receivership proceeding and, within two weeks of One Call's report, Consumer Advocate was to file a response indicating whether it would pursue or withdraw the petition for proceeding to consider civil penalty.

When neither party filed a status report, the ALJ issued an order on December 12, 2006, requiring reports. On December 18, 2006, One Call's former attorney, Ms. Krista Tanner, filed a statement with the ALJ explaining that because the federal receivership order terminated her representation of One Call, it would be improper for her to file a status report.

On January 3, 2007, Consumer Advocate filed with the Board a status report indicating that, in the absence of a status report from One Call or the receiver, it was not willing to withdraw its petition in this matter.

In an order issued on February 13, 2007, the ALJ noted that One Call's former attorney had withdrawn as counsel for One Call. The ALJ directed Consumer Advocate to file a status report regarding the status of the receivership proceeding and indicating whether Consumer Advocate is willing to withdraw its petitions in the dockets before the ALJ or to agree to their dismissal without prejudice.

On February 14, 2007, Consumer Advocate filed a response to the ALJ's February 13, 2007, order. Consumer Advocate states the clerk of the United States District Court for the Southern District of Indiana advises Consumer Advocate that the receivership proceeding is pending and that a party to that proceeding has filed a notice of application for default judgment against One Call. Consumer Advocate states it is not willing to withdraw its petitions but is willing to agree to their closure without prejudice to reopening if and when there is a need to reopen.

Based on Consumer Advocate's willingness to dismiss the petitions without prejudice to reopening, the Board will close this matter, which was identified as Docket No. FCU-06-41. Consumer Advocate may refile its petition for proceeding to consider civil penalty if future circumstances present a reason to reopen this matter.

IT IS THEREFORE ORDERED:

The proceeding identified as Docket No. FCU-06-41 is closed.

UTILITIES BOARD

/s/ John R. Norris

/s/ Curtis W. Stamp

ATTEST:

/s/ Judi K. Cooper
Executive Secretary

Dated at Des Moines, Iowa, this 27th day of February, 2007.