

STATE OF IOWA  
DEPARTMENT OF COMMERCE  
UTILITIES BOARD

<p>IN RE:</p> <p>OFFICE OF CONSUMER ADVOCATE,</p> <p style="padding-left: 40px;">Petitioner,</p> <p style="text-align: center;">vs.</p> <p>BUZZ TELECOM, CORP.,</p> <p style="padding-left: 40px;">Respondent.</p>	<p><b>DOCKET NO. FCU-06-55</b>, C-06-183, C-06-184, C-06-185, C-06-189, C-06-193, C-06-198, C-06-202, C-06-204, C-06-205, C-06-208, C-06-214, C-06-215, C-06-222, C-06-228, C-06-232, C-06-234, C-06-235, C-06-256, C-06-257, C-06-268, C-06-270, C-06-271, C-06-272, C-06-278, C-06-279, C-06-282, C-06-287, C-06-289, C-06-290, C-06-291, C-06-292, C-06-293, C-06-294, C-06-295, C-06-296, C-06-297, C-06-298, C-06-299, C-06-301, C-06-302, C-06-303, C-06-304, C-06-305, C-06-306, C-06-307, C-06-308, C-06-310, C-06-311, C-06-312, C-06-313, C-06-314, C-06-315, C-06-316, C-06-317, C-06-318, C-06-319, C-06-320, C-06-321, C-06-322, C-06-324, C-06-325, C-06-326, C-06-327, C-06-328, C-06-329, C-06-330, C-06-337, C-06-338, C-06-340, C-06-341, C-06-342, C-06-343, C-06-344, C-06-347, C-06-348, C-06-363, C-06-364, C-06-365, C-06-366, C-06-367, C-06-375, C-06-331, C-06-332, C-06-333, C-06-334, C-06-335, C-06-339, C-06-345, C-06-346, C-06-349, C-06-350, C-06-351, C-06-352, C-06-353, C-06-354, C-06-355, C-06-356, C-06-357, C-06-358, C-06-359, C-06-360, C-06-362, C-06-369, C-06-370, C-06-371, C-06-374, C-06-376, C-06-377, C-06-378, C-06-379, C-06-380, C-06-381, C-06-382, C-06-383, C-06-384, C-06-385, C-06-387, C-06-388, C-06-389, C-06-390, C-06-391, C-06-392, C-06-394, C-06-395, C-06-396, C-06-398, C-06-399, C-06-400, C-06-401, C-06-403, C-06-404, C-06-405, C-06-406, C-06-407, C-06-408, C-06-409, C-06-410, C-06-411, C-06-412, C-06-413, C-06-414, C-06-415, C-06-416, C-06-417, C-06-418, C-06-419, C-06-420, C-06-421, C-06-422, C-06-423, C-06-424, C-06-425, C-06-426, C-06-427, C-06-428, C-06-429, C-06-430, C-06-431, C-06-432, C-06-433, C-06-434, C-06-435, C-06-436, C-06-437, C-06-438, C-06-439, C-06-440, C-06-441, C-06-442, C-06-443, C-06-444, C-06-445, C-06-446, C-06-447, C-06-448, C-06-450, C-06-451, C-06-452, C-06-453, C-06-454, C-06-455, C-06-456, C-06-457, C-06-458, C-06-459, C-06-461, C-06-462, C-06-463, C-06-464, C-06-465, C-06-466, C-06-467, C-06-468, C-06-469, C-06-470, C-06-471, C-06-472, C-06-473, C-06-474, C-06-475, C-06-476, C-06-477, C-06-478, C-06-479, C-06-480, C-06-481, C-06-482, C-06-483, C-06-484, C-06-485, C-06-486, C-06-487, C-06-488, C-06-489, C-06-490, C-06-491, C-06-492, C-06-493, C-06-494, C-06-495, C-06-496, C-06-497, C-07-2, C-07-3, C-07-4, C-07-5, C-07-6, C-07-8, C-07-9, C-07-10, C-07-11, C-07-12, C-07-13, C-07-15, C-07-16, C-07-17, C-07-18, C-07-19, C-07-20, C-07-21, C-07-22, C-07-23, C-07-25, C-07-26, C-07-27, C-07-28, C-07-32, C-07-33, C-07-34, C-07-36, C-07-37, C-07-38, C-07-39, C-07-40, C-07-41, C-07-45, C-07-46, and C-07-49.</p>
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**ORDER GRANTING MOTION FOR DEFAULT JUDGMENT,  
ASSESSING CIVIL PENALTIES, AND PROHIBITING ALL CARRIERS FROM  
SERVING OR BILLING FOR RESPONDENT**

(Issued April 20, 2007)

On March 28, 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).

**BACKGROUND**

On various dates in December of 2006 and January and February of 2007, pursuant to Iowa Code §§ 476.3 and 476.103, Consumer Advocate filed with the Board petitions for proceedings to consider civil penalties and other remedies for alleged slamming and cramming violations committed by Buzz. Those petitions arose out of 258 informal complaint proceedings in which consumers alleged that Buzz made unauthorized changes to their long distance service.<sup>1</sup>

On January 30, February 16 and 27, and March 5, 2007, the Board issued orders granting Consumer Advocate's requests for proceedings to consider civil penalties in, and consolidating the files that are the subject of this order, with Docket No. FCU-06-55 another proceeding involving similar allegations against Buzz. The Board's orders directed Buzz to respond to Consumer Advocate's petitions within

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<sup>1</sup>From April 2006 to February 2007, the Board received 296 complaints from consumers alleging Buzz made unauthorized changes to their telecommunications service. The Board has docketed 290 of those complaints for formal proceedings. The group of 258 complaints that are the subject of this order are the last group to reach the final stages of the Board's formal complaint process.

seven days of the date of each of the Board's orders. 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 February 8, February 27, and March 14, 2007, it mailed Buzz notices of intention to file application for default in this docket. Consumer Advocate seeks judgment by default against Buzz in these 258 cases for civil monetary penalties in amounts the Board deems appropriate, up to and including \$10,000 dollars per violation, the maximum amount allowed by law.

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 \$10,000 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 January 30, February 16 and 27, and March 16, 2007, orders and has failed to respond to Consumer Advocate's data requests. The Board agrees with Consumer Advocate that Buzz is in default with respect to these 258 complaints 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 Iowans, 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 would normally grant Consumer Advocate's motion for a default judgment against Buzz in the amount of \$10,000 per violation. However, the Board has already fined Buzz in this docket, the fines have not been paid, and it appears Buzz is no longer in business. Under these circumstances, assessing additional fines that would not be paid would be meaningless. At this point, it appears the most important relief the Board can grant is to prevent any future similar actions by Buzz.

To that end, 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 prohibition on any other service provider from billing charges to residents of Iowa on behalf of Buzz and the prohibition on certificated local exchange providers from providing exchange access services to Buzz, as provided in the Board's January 30, 2007, order in this docket, will remain in effect.

### **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 March 28, 2007, is granted.

2. Judgment by default is granted against Buzz Telecom, Corp., in Docket No. FCU-06-55 for violations in File Nos. C-06-183, C-06-184, C-06-185, C-06-189, C-06-193, C-06-198, C-06-202, C-06-204, C-06-205, C-06-208, C-06-214, C-06-215, C-06-222, C-06-228, C-06-232, C-06-234, C-06-235, C-06-256, C-06-257, C-06-268, C-06-270, C-06-271, C-06-272, C-06-278, C-06-279, C-06-282, C-06-287, C-06-289, C-06-290, C-06-291, C-06-292, C-06-293, C-06-294, C-06-295, C-06-296, C-06-297, C-06-298, C-06-299, C-06-301, C-06-302, C-06-303, C-06-304, C-06-305, C-06-306, C-06-307, C-06-308, C-06-310, C-06-311, C-06-312, C-06-313, C-06-314, C-06-315, C-06-316, C-06-317, C-06-318, C-06-319, C-06-320, C-06-321, C-06-322, C-06-324,

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C-07-46, and C-07-49.

4. The Board's January 30, 2007, order prohibiting service providers from billing charges to residents of Iowa on behalf of Buzz Telecom, Corp., and prohibiting certificated local exchange providers from providing exchange access services to Buzz Telecom, Corp., remains in effect.

**UTILITIES BOARD**

/s/ John R. Norris

/s/ Curtis W. Stamp

ATTEST:

/s/ Judi K. Cooper  
Executive Secretary

/s/ Krista K. Tanner

Dated at Des Moines, Iowa, this 20<sup>th</sup> day of April, 2007.