

STATE OF IOWA  
DEPARTMENT OF COMMERCE  
UTILITIES BOARD

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<p>IN RE:</p> <p>OFFICE OF CONSUMER ADVOCATE,</p> <p style="padding-left: 100px;">Complainant,</p> <p style="padding-left: 100px;">vs.</p> <p>CUSTOM TELECONNECT, INC.,</p> <p style="padding-left: 100px;">Respondent.</p>	<p style="text-align:center">DOCKET NO. FCU-07-3 (C-07-86)</p>
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**ORDER DOCKETING FOR FORMAL PROCEEDING AND  
SETTING DEADLINE FOR RESPONSE**

(Issued April 24, 2007)

On March 15, 2007, 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 Custom Teleconnect, Inc. (CTI). Based upon the record assembled in the informal complaint proceeding, the events to date can be summarized as follows:

On February 13, 2007, Robert R. Meyer of RM Communications filed a cramming complaint on behalf of Dallas Center – Grimes Schools. Mr. Meyer explained that CTI charged a four-minute collect call to the school's fax number on Sunday, January 21, 2007, at 4:12 a.m. Zero-Plus Dialing, Inc. (ZPDI), billed on behalf of CTI and placed a \$25.07 charge onto the school's local telephone bill.

Mr. Meyer explained that prior to filing the cramming complaint, he called ZPDI and explained that no one could have accepted the collect call because the school would have been empty at 4:12 a.m. on Sunday morning, and it would be impossible for the collect call to be accepted because the number called was the school's fax machine. Mr. Meyer stated that ZPDI told him that the charges for the call would not be credited because of the length of the call, put him on hold, and disconnected his call.

Board staff identified the matter as File No. C-07-86 and, pursuant to Board rules, on February 15, 2007, forwarded the complaint to CTI and received CTI's response on February 23, 2007. CTI's response described how its operation services work but offered no explanation of how a fax machine could have authorized a collect call or how a collect call could have been authorized during a time when the school was unoccupied. CTI stated that a full credit of \$25.07 had already been issued, and a block had been added in its system to prevent future billing to the school's fax line. On March 5, 2007, Board staff issued a proposed resolution stating that the charge by CTI was unauthorized and cramming had taken place.

On March 15, 2007, Consumer Advocate requested a formal proceeding to consider civil penalty in order to afford CTI notice and opportunity for hearing, to determine whether CTI committed a cramming violation, and to consider a penalty in an amount designed to deter future violations. On March 21, 2007, CTI filed additional information to explain how its system may have interpreted a fax machine as accepting a collect call. CTI stated that its system utilizes a positive acceptance

on all collect calls, meaning the recipient must press an acceptance digit to accept charges for the call. CTI suggested the following might have occurred to cause its system to consider the call to have been accepted:

- Excessive line noise in transmission facilities.
- Cross talk in the serving wire center at the time of the call.
- Tone modulation from a fax or modem at the time of the call.
- Corrupt data in CDR generated by the billing system.

CTI stated that they could not pinpoint what caused the error that resulted in the collect call to the school fax machine. CTI stated that this was an isolated incident and it would continue to test and evaluate its system.

The Board has reviewed the record to date and concludes there are reasonable grounds for further investigation of this matter. CTI fails to give a reasonable explanation of how a collect call could be charged to an unoccupied school on Sunday morning or how a collect call could be completed to a fax machine. In its March 21, 2007, letter, CTI states that its system utilizes a positive acceptance on all collect calls, meaning the recipient must press an acceptance digit to accept charges for the call. If the recipient must press an acceptance digit to accept the call, then up to this point none of CTI's explanations are sufficient, because they do not explain how they could cause a false acceptance or whether these occurrences are common or rare. Without this information, the Board cannot fully evaluate CTI's suggestions.

The Board finds that further investigation of CTI's positive acceptance system and the means by which it secures consumer authorization of charges for its service is appropriate. The Board will grant Consumer Advocate's petition for proceeding to consider a civil penalty, but will delay establishing a procedural schedule to allow CTI an opportunity to respond to Consumer Advocate's petition.

**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 March 15, 2007, is granted as discussed in this order. File No. C-07-86 is docketed for formal proceeding, identified as Docket No. FCU-07-3.

2. Custom Teleconnect, Inc., 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

/s/ Curtis W. Stamp

ATTEST:

/s/ Judi K. Cooper  
Executive Secretary

/s/ Krista K. Tanner

Dated at Des Moines, Iowa, this 24<sup>th</sup> day of April, 2007.